

भारत का राजपत्र The Gazette of India

प्राधिकार से प्रकाशित

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No. 21]

NEW DELHI, SATURDAY, MAY 24, 1969/JYAISTHA 3, 1891

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

नोटिस

NOTICE

नीचे विखे भारत के असाधारण राजपत्र 6 मई 1969 तक प्रकाशित किये गये।--

The undermentioned Gazettes of India Extraordinary were published up to the 6th May 1969 :—

Issue No.	No and Date	Issued by	Subject
161	S. O. 1721, dated 28th April, 1969	Ministry of Law	Bye election to the Council of States by the Elected Members of the Legislative Assembly of Madhya Pradesh.
	का० आ० 1722, दिनांक 28 अप्रैल, 1969।	विधि मन्त्रालय	मध्य प्रदेश विधान सभा के निर्वाचित सदस्यों द्वारा राज्य सभा के लिये अनिवार्य ।
162	S.O. 1723, dated 30th April, 1969	Ministry of Finance.	Extending the period for the making of declarations by licensed dealers and refiners upto the 30th June, 1969.
163	S.O. 1724, dated 30th April, 1969	Ministry of Foreign Trade and Supply	Extending the term of Shri P.C. Aggarwal beyond 30th April until further orders.
164	S. O. 1725, dated 1st May, 1969.	Do.	Amendment in notification No. S.O. 771, dated 6th March, 1965.
165	S. O. 1726, dated 1st May, 1969.	Do.	Amendment in notification No. S. O. 491, dated 11th February, 1966.

Issue No.	No. and Date	Issued by	Subject
166	S. O. 1727, dated 1st May, 1969.	Election Commission of India.	Bye election to the House of the People from the 30 Midnapore Parliamentary Constituency.
	एस० आ० 1728, दिनांक 1 मई, 1969।	भारत निर्वाचन आयोग	30 मिदनापुर संसदीय निर्वाचन क्षेत्र से लोक सभा के लिये उप- निर्वाचन।
167	S. O. 1729, dated 1st May, 1969.	Ministry of Foreign Trade and Supply.	Recognition of Export Inspection Agencies for inspection of Fish and Fish Products prior to export.
	S. O. 1730, dated 1st May, 1969.	Do.	The Export of Fish and Fish Products (Inspection) Amendment Order, 1969.
168	S. O. 1731, dated 1st May, 1969.	Do.	Recognition of Export Inspection Agencies for inspection of Frog Legs prior to export.
	S. O. 1732, dated 1st May, 1969.	Do.	The Export of Frog Legs (Inspection) Amendment Rules, 1969.
169	S. O. 1733, dated 1st May, 1969.	Ministry of Finance.	Referring certain further matters to the Finance Commission constituted by S. O. No. 812, dated 29th February, 1968.
	का० आ० 1734, दिनांक 1 मई, 1969।	वित्त मन्त्रालय	29 फरवरी, 1968 के का० आ० सं० 812 क अधीन गठित वित्त आयोग को कुछ और मामले विचारार्थ सौंपना।
170	S.O. 1735, dated 3rd May, 1969.	Ministry of Home Affairs.	Vice-President assumes the office of President by reason of the death of the President, Dr. Zakir Husain.
	एस० आ० 1736, दिनांक 3 मई, 1969।	गृह मन्त्रालय	राष्ट्रपति डा० जाकिर हुसैन के निधन के कारण, उप-राष्ट्रपति ने राष्ट्रपति के पद को ग्रहण कर लिया है।
171	S. O. 1737, dated 3rd May, 1969	Ministry of Industrial Development, Internal Trade and Company Affairs.	Amendment to S. O. 867, dated 15th May, 1958.
172	S. O. 1738, dated 3rd May, 1969.	Ministry of Irrigation and Power.	Amendment in notification No. S.O. 1419, dated 10th April, 1969.
	S.O. 1739, dated 3rd May 1969.	Do.	Amendment in notification No. S.O. 1421, dated 10th April, 1969.
	एस० आ० 1740, दिनांक 3 मई, 1969।	सिंचाई और बिजली मन्त्रालय	अधिसूचना सं० का० आ० 1420, तारीख 10 अप्रैल, 1969 में संशोधन करना।
	एस० आ० 1741, दिनांक 3 मई, 1969।	—तदेव—	अधिसूचना सं० का० आ० 1422, तारीख 10 अप्रैल, 1969 में संशोधन करना।

Issue No.	No. and Date	Issued by	Subject
173	S. O. 1742, dated 3rd May, 1969.	Election Commission of India.	Amendments in notification No. 100/G.J. —H.P./1/69(2), dated 1st April, 1969.
	एस० ओ० 1743, दिनांक 3 मई, 1969।	भारत निर्वाचन आयोग	अधिसूचना सं० 100/गुजरात-लो० सं० 1969(2), दिनांक 1 अप्रैल, 1969।
174	S. O. 1802, dated 6th May, 1969.	Election Commission of India.	Amendment in notification No. 56/69-II (S. O. 89), dated 4th January, 1969.
175	S. O. 1803, dated 9th May, 1969.	Ministry of Foreign Trade and Supply.	Amendment in notification No. S.O. 2842, dated 23rd September, 1966.

ऊपर लिखे प्रसाधारण राजपत्रों की प्रतियाँ प्रकाशन प्रबन्धक, सिविल लाइन्स, दिल्ली के नाम मांगपत्र भेजने पर भेज दी जाएगी। मांगपत्र प्रबन्धक के पास इन राजपत्रों के जारी होने का तारीख से 10 दिन के भीतर पहुँच जाने चाहिए।

Copies of the Gazettes Extraordinary mentioned above will be supplied on indent to the Manager of Publications, Civil Lines, Delhi. Indents should be submitted so as to reach the Manager within ten days of the date of issue of these Gazettes.

भाग II—खण्ड 3—उपखण्ड (ii)

PART II—Section 3—Sub-section (ii)

(रक्षा मंत्रालय को छोड़कर) भारत सरकार के मंत्रालयों और (संघ क्षेत्र प्रशासन को छोड़कर) कर्नाटक प्राधिकरणों द्वारा जारी किये गए विधिक आदेश और अधिसूचनाएँ।

Statutory orders and notifications issued by the Ministries of the Government of India (other than the Ministry of Defence) and by Central Authorities (other than the Administration of Union Territories).

ELECTION COMMISSION OF INDIA

New Delhi, the 20th February 1969

S.O. 1924.—In pursuance of section 106 of the Representation of the People Act, 1951, the Election Commission hereby publishes the order pronounced on the 11th November, 1968, by the High Court of Jammu and Kashmir at Srinagar, in Election Petition No. 4 of 1967.

HIGH COURT OF JAMMU AND KASHMIR SRINAGAR

PRESENT:

The Hon'ble Mr. Justice J. N. Bhat.

Election Petition No. 4 of 1967.

Abdul Gani Malik Vs. Syed Ahmed Aga and another

ELECTION PETITION

M/s. T. R. Bhasin, P.L. Handoo and R. N. Koul.

M/s. R. K. Garg. K. N. Raina

In the last general elections of 1967, the petitioner, Abdul Gani Malik, a National Conference candidate, the returned candidate Syed Ahmed Aga respondent No. 1, a Congress candidate and another gentleman respondent No. 2 S. Sant Singh Teg stood for Parliamentary constituency of Baramulla in the State of Jammu and Kashmir. The nomination papers of the respondent No. 2 Sardar Sant Singh Teg were rejected by the Returning Officer (Deputy Commissioner, Baramulla) on 21st January, 1967. The petitioner and the respondent No. 1 fought the election, ultimately the respondent No. 1 was declared elected in this constituency on 5th March, 1967. The petitioner Abdul Gani Malik presented this election petition to get the election of the respondent No. 1 declared void. The petition was originally presented on 15th April, 1967, and was subsequently amended on 11th September, 1967. The amendment introduced will be pointed out subsequently. The amended petition avers that the petitioner, a permanent resident of the State of Jammu and Kashmir, stood as a candidate from the Baramulla Parliamentary Constituency one of the six de-limited constituencies in the State for the House of the People of the Parliament. The candidates were required to file their nomination papers upto the 20th of January 1967 between 11 A.M. and 3 P. M. The parties filed their nomination papers in time and the scrutiny was to be effected and was actually effected on 21st January, 1967 by the Returning Officer. The nomination papers of the petitioner and the respondent No. 1 were accepted and those of the respondent No. 2 improperly and illegally rejected. This improper and illegal rejection of the nomination paper of the respondent No. 1 by itself liable to be set aside. In paragraph 6 reference is to some segment (which I presume is to Kupwara) some polling stations are mentioned about which certain irregularities are detailed:

That at Bramri polling station, the Presiding Officer stopped the poll nearly at 3 P.M. against the protests and requests of the petitioner; that at Auora station the Presiding Officer turned out the agents of the petitioner immediately after the start of the poll. In spite of the fact that the Returning Officer was informed immediately no action was taken by him with the result that the Presiding Officer himself cast votes for the Congress candidate. At Anderhama polling station one M. S. Tantray with the consent and under the instructions of the respondent No. 1 usurped the functions of the Presiding Officer and marked the ballot papers removing the polling agents of the petitioner. The petitioner was not allowed to have any counting agent at the time of the counting of votes of this Kupwara segment.

In the Bandipora segment of this constituency from the day of scrutiny at the behest of the respondent No. 1 and for him, Government servant Ghulam Mohi-ud-Din Buhree, a Labour Officer, worked for the respondent No. 1 and addressed meetings at Gumru, Aragam Chety Bandi Tehsil Bandipora to further the prospects of the election of this candidate. The poll for this segment was ordered to be held on 21st February 1967. Even on 22nd February 1967 the Returning Officer did not know if the same had taken place in 8 polling stations of this segment in Gurez and Teel across the mountain. Some ballot boxes from these areas were received as late as on 4th March 1967. This Ghulam Mohi-ud-Din Buhree was the Presiding Officer at Bhadwan wanpora and marked the ballot papers himself for the respondent No. 1. Polling in this segment of the constituency was held in utter disregard of the Act and statute. At Kalusa only two boxes were used for ballot papers but at the time of counting four boxes were produced with ballot papers which shows that the Presiding Officer had falsely marked the ballot papers and cast votes in favour of the respondent No. 1. One of the ballot boxes contained ballot paper account, paper seal account, Presiding Officer's diary and other documents in violation of the statutory rules and orders: At Kalusa Nathapora and Panzigam the polling agents of the petitioner were not allowed to function. False votes were cast in favour of the respondent No. 1. The Presiding Officer of Kalusa Nathapora allowed the Lumberdar and chowkidar of the area to remain in the polling station and work for the respondent No. 1. Out of 1,628 votes 1,530 were supposed to have been cast although many of the voters were either dead or out of the State. At polling station Ayatmulla, the polling agents and the election agent of the petitioner were not permitted to enter the station. 537 votes out of 551 are reported to have been cast although 5 voters were dead, 55 were absent from the Station and many more did not come to the poll.

In Harel segment false voting, impersonation and casting of votes by the Presiding Officer themselves were resorted to. At Tojar Pahlhar Zainageer

the polling station was shifted from the boys School to the House of a Congress worker. Only two boxes were used there and at the time of counting three boxes were produced in the hall. At polling station Langate and Monahal the polling agents were removed from the stations and votes were cast themselves by the Presiding officers. At Ganawpora polling station the certificate issued to the petitioner's agent showed that not less (should be more) than 200 voters had cast their votes; but counting revealed that 680 had been cast: At Marggam votes were cast on behalf of dead people: At Sahipora Hamal the Presiding Officer closed the poll immediately after it started, issued a written order for the same; removed the agents and later marked the ballot papers himself: At Butengoo polling station, petitioners Agents were removed even before the poll started: In the Rafiabhad segment of this constituency the following irregularities were committed: The Presiding officer and one Ali Mohd. Reshi removed the ballot boxes at Brat polling station to the latter's house, marked the ballot papers and cast votes in favour of the respondent No. 1. The matter was reported to the Presiding Officer by the petitioner and his running mate S. Jodh Singh. At Ribbon Rehama Shri Ghulam Rasul Kar, the then Minister of State, supervised the poll, cast votes in favour of the respondent. In Uri segment of this constituency, torrential down pour of rain on 21st February 1967 did not permit the voters to cast their votes. There was impersonation of real, dead and absentee voters. The matter was reported to the Returning Officer and the Secretary Election Commission. At the time of counting rules were observed by breach. Un-authorised persons like Syed Mir Qasim, President Pradesh Congress Committee, Ali Mohd. Tariq, the then Minister, Makhan Lal Fotedar, remained present in the counting hall and interfered in the counting in direct violation of the counting law. The petitioner was not permitted to get his counting agents for the Kupwara segment. Counting for Lolab segment was started when only 2, 3, counting agents were present. After illegally rushing through the counting, giving credit of the votes polled for the petitioner to the respondent, the Assistant Returning Officer did not permit the petitioner and his agent Bashir Ahmed to seal the packages. He left the hall leaving Mohd. Khalil B.D.O. in the hall. As darkness had advanced, some police trucks arrived at the counting hall, carrying the Superintendent of Police, and some police-men. They threatened the agents of the petitioner out at the point of bayonet, removed all the papers to an unknown destination. These fears had been earlier reported to the Secretary to Election Commission. The Secretary to Election Commission at about midnight contacted the Deputy Commissioner (R.O.) about the whereabouts of the relevant papers. They went to Handwara, from Handwara to Sopore in search of the papers and the Assistant Returning Officer who was ultimately discovered at 6 A.M.

When votes of Sonawari segment were counted, written applications were given to the Returning Officer in regard to tampering of accounts, wrong paper seal accounts; this was particularly so in respect of Hakbra and Shagund stations. Ballot papers in bulk and lumped together were found in the boxes. When the matter was reported to the Returning Officer, he pleaded his helplessness. At majority of places the bulk of votes secured by the petitioner were counted in favour of the respondent. The directions of the Returning Officer were not at all heeded to. So many validly secured votes of the petitioner were regarded as invalid. In Karnah segment polling could not take place on 21st February, 1967 because Nathusapass was impassable. The petitioner was informed on 24th February, 1967 at 9 A.M. (should be P.M.) that the poll had been fixed for 26th February, 1967 in 14 stations of Karnah. It is not known even if the Presiding Officers were informed about this. The entire Government machinery wored at the behest and with the connivance of the respondent No. 1. The then Minister of the State (Mr. Gh. Rasul Kar), directed the operation of marking the ballot papers and casting of votes.

All these actions have materially affected the result of the election of the respondent No. 1, and the respondent No. 1 has committed corrupt practices also detailed above. The petitioner therefore, prays that the election of the respondent No. 1 be set aside and he be paid costs.

The petition was mainly resisted by the respondent No. 1. The respondent No. 2 appeared through Mr. Ali Mohd Advocate on a number of hearings. Both the respondent filed their written statements. The respondent No. 1 put in the written statement to the original petition of the petitioner. After amendment of the petition no fresh written statement was filed by the respondent No. 1 but the previous written statement was adopted by means of the submissions dated

3rd October, 1967 by the learned counsel for the respondent No. 1. As such in the written statement of the respondent No. 1 there are many statements which have no relevance to the main petition as brought out in the amended petition. Any how in substance the written statement of the respondent No. 1 proceeds as under :—

It admits that the parties stood for the said election. The improper and illegal rejection of the nomination papers of the respondent No. 2 is denied and it is contended that the nomination papers of the respondent No. 2 were rejected on valid and proper grounds. Allegations about Mohd Sultan Tantray's (who is the B.D.O.) participation are denied. About Bramri polling station it is stated that the voting was not interrupted nor were the voters made to go back without exercising their franchise. The requests and protests of the petitioner are also denied. The allegations of turning out of polling agents of the petitioner at Auora polling station is termed as false and baseless. The allegations against the Presiding Officers are also denied as well as the impersonation charges. The allegations about Anderhama polling station are also denied. No ballot papers were marked by any person other than the voters themselves. About the counting agents, it is stated that the counting agents of the petitioner were present at the time of counting of the Kupwara segment. No irregularities were committed at the time of counting. The working of any Government servant for the respondent No. 1 to further his election prospects is denied, nor were any meetings addressed by Government officers within the knowledge or with the consent or at the behest of the respondent. The block level workers did not address any meetings. It is admitted that on 22nd February, 1967 the Returning Officer did not know about the polling having taken place in Gurez and Telal area on 21st February, 1967 because of suspension of all means of communications between the Returning Officer and these areas. Some ballot boxes were received after some time. The marking of the ballot papers by Mohi-ud-din Labour Officer and Presiding Officer at Bhadwanpora is also denied. No irregularity has been committed at Kunisha polling station. The ballot paper account, paper seal account, Presiding Officers diary and other documents relating to the elections were recovered from a sealed ballot box but this fact does not suggest any irregularity having been committed. It on the other hand shows great caution and shows the bonafides of the Presiding Officer. It is denied that the Polling agents at Kalusa Nathapora, Panzigam and other stations were removed. The Lamberdar and Chowkidar of Kalusanathapora were not present in the polling stations and no influence was exercised by them on the voters. The removal of the polling agents of the petitioner from any polling stations is denied. The details of persons dead who did not actually participate in voting are not mentioned. No polling officer closed the poll after it started. The removal of ballot boxes by Ali Mohd Reshi is also denied. No Minister of State either supervised or marked the ballot papers. Counting was conducted in presence of the Counting agents of all the contesting candidates and the candidates, and nothing illegal was committed at the time of counting. No complaint to the knowledge of the respondent No. 1 was ever made by the petitioner or his agent. No ballot papers in bulk were recovered from any box. About the Karnah segment the poll could not take place on the Scheduled date on account of bad weather. The assistant Returning Officer could not reach the Head quarters in time as the passes were closed. The dates for poll were fixed by the election authorities. Notice of change of the date from 21st February, 1967 to 24th February, 1967 (should be 26th February, 1967) was given to all the contesting candidates and concerned well in time. The results of the election have not been materially affected by any acts on behalf of the respondent No. 1 or with his knowledge and consent. In the further pleas it is stated that the affidavit in support of the petition is not in accordance with the law. The alleged corrupt practice did not conform to the provisions of law. Some of the allegations do not constitute a ground to declare the election void.

On behalf of the despondent No. 2 a written statement was filed which in substance is to the following effect :—

It admits that the three candidates, arrayed as parties in this petition, stood for the said election. The scrutiny of the nomination papers was fixed for 21st January, 1967. This respondent brought with him a part of the electoral roll in which he was registered as an elector the electoral roll relating to Jammu city which was also a draft electoral roll under rules in the parliamentary constituency as well. The time being very short at his disposal, this respondent could not go to Jammu for securing the final electoral roll for the Parliamentary

constituency in which he was registered as an elector. At the scrutiny objection having been taken in regard to to non-production of final parliamentary roll, this respondent sought to impress upon the Returning Officer that though the electoral roll which he was producing before the Returning Officer was only a draft electoral roll and the final electoral roll could consist only in addition of more electors which would not in any case change or alter his serial number in the electoral roll as the changes would be added beyond the last number of the electoral roll; the Returning Officer tried to be hyper-technical and an adjournment was sought by this respondent for the production of the final electoral roll. The Returning Officer agreed to grant time till 23rd January, 1967 as 22nd January 1967 was a Sunday, this respondent tried to convince the Returning Officer that he could not produce the final relevant roll on 23rd January, 1967. He asked for an adjournment till 24th January, 1967 which the Returning officer did not agree to. Ultimately the respondent No. 2 agreed to the adjournment till 23rd January, 1967. On that date the respondent came to Baramulla with the relevant electoral roll. He found that the Returning Officer was not there and that he had rejected this respondent's nomination paper despite his having agreed to grant him an adjournment till 23rd January, 1967. Faced with this situation this respondent went to the Returning Officer of the Assembly constituency who was the Addl. District Magistrate Baramulla, and in order to evidence the fact that he had brought the relevant portion of the parliamentary electoral roll, produced the same before him and also swore an affidavit before him. The respondent No. 2 obtained a certificate also from the said A.D.M. which was attached with the original. The Returning officer was not in Baramulla till 25th January, 1967 when the final electoral roll as well as an affidavit sworn by the despondent was produced before him. The rejection of the nomination papers of this respondent was illegal and improper—

This respondent did not ultimately take part in the proceedings of this case. His counsel appeared on dates upto 28th July, 1967 after which nobody appeared on his behalf.

After the original petition was presented, the petitioner put in an application on 22nd July, 1967 wherein he sought permission to prune the petition of non-essential averments or those which were vague or about which he may not be able to furnish particulars. He further sought permission to examine the ballot papers for furnishing particulars of wrongly accepted or wrongly rejected votes. This application was opposed by the learned counsel for the respondent No. 1. By my order dated 8th August, 1967 I permitted the petitioner to inspect the ballot papers regarding Botengge polling station only for reasons recorded in that order. By means of my order dated 8th September, 1967 I permitted the petitioner to amend his petition. A number of issues were originally framed which were amended after the amended petition and the final issues, as suggested by the learned counsel for the parties, were drawn up on the basis of the amended petition dated 26th December, 1967 which are as under :—

1. Is the petition liable to be dismissed as the affidavit in support of the petition is not in accordance with law? O.P.P.
2. (a) Was the respondent No. 2 a duly nominated candidate and has his nomination paper been improperly rejected? O.P.P.
(b) If so, is election of respondent No. 1 void on this score? O.P.P.
3. Did the poll at Bamri polling station stop nearly at 3 P.M. despite the protests of the petitioner? O.P.P.
4. (a) Did the Presiding Officer at Oura polling station turn out the polling agents of the petitioner immediately after the start of the poll? O.P.P.
(b) Was the Returning Officer informed about this immediately and did he not take any action. Was the result of the election materially affected by this fraudulent device? O.P.P.
5. Did the Presiding Officer alongwith Mr. M. S. Tantray under the instructions of and with the consent of the respondent No. 1 mark the ballot papers himself at the Anderhama polling station and did he remove the polling agents of the petitioner? O.P.P.
6. Was the petitioner not allowed to have any counting agents at the time of counting of votes of Kupwara segment of Parliamentary Constituency? O.P.P.

7. Did Ghulam Mohi-ud-din Bohru Labour Officer, work for respondent No. 1 at his behest and for him in the Bandipore segment of this Parliamentary Constituency right from the day of scrutiny and address meetings at Garmu Tehsil Bandipora, Aragam Tehsil Bandipora Chiti Bandy Tehsil Bandipora to further the prospects of the election of the respondent No. 1? O.P.P.
8. Were some boxes received from the mountainous areas in the segment of the Parliamentary Constituency in which polling had to be held on 21st January, 1967 as late as 4th March, 1967? Though the poll had to take place on 21st February, 1967? O.P.P.
9. Did the polling on 21st February, 1967 as mentioned in issue above, take place in contravention of the rules, orders and instructions under the Representation of the People Act gravely Prejudicing the prospects of the election of the petitioner? O.P.P.
10. Did Ghulam Mohi-ud-Bohru Labour Officer, who was the Presiding Officer of Polling Stations at Badwan-Wampora mark the ballot papers himself for respondent No. 1 in the polling station mentioned in issue above? O.P.P.
11. Whether at Kunish only two ballot boxes were used for the purpose of the polling, but at the time of counting of the ballot papers four ballot boxes instead of two were produced, one ballot box containing not only ballot papers but also other documents not excepted to be in the ballot paper box namely ballot paper account, paper seal account, Presiding Officer's diary, etc. Had the Presiding Officer falsely marked the ballot papers himself and cast votes in favour of the respondent O.P.P.
12. Were polling agents of the petitioner at Kalusa Nathpora and Panzigam in this segment of Parliamentary Constituency not allowed to function, resulting in false votes being cast in favour of the respondent No. 1? O.P.P.
13. Did the Presiding Officer of Polling Station Kalusa Nathpora permit the Lumberdar. Chowkidar of the area to remain inside the polling stations to work for respondent No. 1 unauthorisedly thus materially affecting the result of the election of respondent No. 1? O.P.P.
14. At the polling stations mentioned in issue above were out of the total votes of 1628 as many as 1530, i.e., only 98 less from the total cast, inspite of the fact that a considerable number of persons alleged to have cast their votes were either dead or absent from the station or were employed outside or had gone for Haj pilgrimage? O.P.P.
15. Were polling agents of the petitioner removed from the polling station Ayatmulla polling station No. 22? Was the election agent of the petitioner not permitted to enter the said polling station? O.P.P.
16. (a) How many votes out of 551 votes voted for respondent No. 1 at the Ayatmulla polling station? O.P.P.
(b) Were votes cast of persons who were either dead or absent from the station? O.P.P.
17. Was the respondent's election materially effected by false voting, impersonation and by casting of votes by the Presiding Officers themselves in contravention of the Representation of the People Act and Rules in the Harel segment of the Parliamentary Constituency? O.P.P.
18. Was the polling station first fixed at the Boys School at Tojar Pahlihar Zainageer but was later shifted to the house of the Congress worker where only two ballot boxes were used at the said polling station but at the time of counting three boxes were produced in the counting hall? O.P.P.
19. Were the petitioner's agents removed from the polling station of Langet and Monobal and were the votes cast by the Officers themselves, thus materially affecting the result of the election of the respondent No. 1. O.P.P.
20. Did at Ganoapora polling station counting of the votes reveal that 680 votes had been polled although the certificate issued to the petitioner's agent showed that only 200 voters had cast their votes? O.P.P.

21. Were votes knowingly cast for dead voters at Maragam prejudicing the petitioners election and materially affecting the result of the election of the respondent No. 1? O.P.P.
22. Did at Sahipora Hamal the Presiding Officer close the poll immediately after it had started by a written order and did he remove the petitioners agent and did he himself mark the ballot papers of respondent No. 1 thus affecting materially the result of the election of Respondent No. 1? O.P.P.
23. Did the Presiding Officer and one Ali Mohd Reshi R/O Sopore remove the ballot box to the house and there marked ballot papers and cast votes in favour of the respondent No. 1. Was the matter reported by the petitioner to the Returning Officer and did Shri Jodh Singh refer the matter to the District Officer and his Returning Officer at Brat Polling Station? O.P.P.
24. Were the petitioners agents removed from the polling station before the polling started at Beotengo polling station materially affecting the result of the election of respondent No. 1? O.P.P.
25. Did Shri G. R. Kar the then Minister of State supervise the polling at Ribin Ramhama and mark ballot papers and cast votes himself? O.P.P.
26. Were the voters in Uri segment to the Parliamentary Constituency prevented from casting their votes due to torrential rains during 19th, 20th and 21st February, 1967, and was election of respondent No. 1 materially affected by impersonation of real as well as dead and absentee voters? O.P.P.
27. Did the petitioner report the violation of law in this Parliamentary Constituency to Returning Officer and to the Secretary of the Election Commission to secure timely redress and if so, what was done? O.P.P.
28. Were at the stage of counting unauthorised persons like S. Mir Qasim President of Pradesh Congress Party, Ali Mohd Tariq the then Minister of Social Welfare, Makhan Lal Fotedar MLA of the Congress party permitted to be present in the counting hall and allowed to interfere with the counting and did this materially affect the result of the respondent No. 1's election? O.P.P.
29. Did counting for the Lolab segment start when only 2 or 3 counting agents were present? O.P.P.
30. Were during the course of counting void, illegal and wrongly marked ballot papers counted in favour of respondent No. 1 and valid ballot papers in favour of the petitioner rejected? O.P.P.
31. Did the Assistant Returning Officer not permit the petitioner and his agent Bashir Ahmed to seal the packets of counted ballot papers and did he leave the counting hall while the petitioner and some of his agents remained there and protested that they would not leave till they signed all the papers they were entitled to sign, but Mr. Mohd Khalol B.D.O. did not permit it? O.P.P.
32. Did, when darkness set in, some police trucks arrive at the counting station alongwith the jeep carrying the Superintendent of Police and some other police personnel and did they enter the hall where the counting was going on and threaten the agents with dire consequences and make them leave at the point of bayonet all the papers to an unknown destination? O.P.P.
33. Was the matter reported to the Secretary Election Commission by the Petitioners agent at about mid-night who immediately left for Baramulla alongwith the petitioners agent and saw the Returning Officer who on being questioned as to the whereabouts of the relevant papers professed ignorance? O.P.P.
34. Did the party accompanied by the Returning officer move to Handwara, Sopore and then came back to Baramulla in search of the papers but did not succeed O.P.P.

35. Was it in the morning at 6 A.M. that these papers were found in packages and bundles separately and were seized by the Secretary Election Commission who got sealed the papers by all those who were present including the agent of the petitioner? O.P.P.
36. If the above four issues are proved, how is the election of respondent No. 1 affected? O.P.P.
37. Were written applications given to the Assistant Returning Officer in regard to tampering of records and wrong papers seal accounts at the place where the votes of Sonawari segment of Parliamentary constituency were being counted in regard to in particular Hakbara Shahgund (1) (2) polling stations. Was it pointed out to the Returning Officer in regard to this vey segment that ballot papers in bulk lumped up together had been found in boxes and did the Returning Officer plead his helplessness? O.P.P.
38. Were the majority of votes recorded in favour of the petitioner reduced to minority by the fraudulent device of the Assistant Returning Officer? O.P.P.
39. Did the Assistant Returning Officer not heed to the direction of the Returning Officer and allowed the record to remain as he had manipulated as above? O.P.P.
40. In Karnah segment of Parliamentary constituency could not the poll be taken on 21st February, 1967 because of the Natnusa pass becoming impassable thus delaying the counting which was scheduled for 22nd February, 1967. Was the petitioner gravely prejudiced in his election from the constituency and was he informed at about 9 P.M. on 24th February, 1967 that the polling had been fixed for 26th February, 1967 in 14 stations of Karnah segment due to the closure of the above named pass and as such polling station could not be reached by the time fixed for the polling? O.P.P.
41. Were the Presiding Officer informed at the correct time of this change in the date of polling and did they reach their respective stations within time? O.P.R.I.
42. Did the Returning Officer reach the stations within time? O.P.R.I.
- 43.(a) Was the change in the date of the polling as indicated in the issue above No. 40 done under the directions of the Minister of State who was directing the operation of the election including the marking of the ballot papers and casting the same in favour of the respondent? O.P.P.
- (b) Did this materially affect the result of the election of respondent No. 1? O.P.P.

The petitioner produced 21 witnesses in support of his case and they are Shri Poshkar Nath Kaul, Secretary to Government Health Department, the Returning Officer of the constituency, Shri Prakash Narayan, the then Secretary to Election Commission, Shri Rughnath Kaul, Advocate, Shri Bashir Ahmed Khan, Election and counting agent of the petitioner, Shri Jodh Singh, Shri Abdul Rashid Keng, Advocate, counting agent of the petitioner, Shri Ghulam Shah, counting agent of the National Conference Candidate, Shri Noor Mohd, Shri Ghulam Mohd Mir, Returning Officer Bandipora Assembly Constituency, Shri Said-ud-din saifi, Returning Officer Kupwara Assembly Constituency, Shri Ghulam Nabi Baba, Returning Officer Karnah Assembly Constituency, Shri Prithvi Nath Bhat, Tehsildar Karnah, Shri Mohd Ramzzan Dar Presiding Officer Kunich Polling station, Shri Abdul Ahad Shelkh Polling Officer, Sehpora Haral, Shri Abdul Hamid Shah, Presiding Officer Iyatmulla Polling station, Shri Mohammad Afzal Election agent of Shri Abdul Kabir National Conference candidate Bandipora, Shri Ghulam Ahmed Dar, National Conference candidate from Kupwara Assembly Constituency, Shri Ghulam Rasul Malla, an independent candidate for Haral Assembly Constituency, Shri Makhan Lal Kaul, News Editor, daily Khidmat, Shri Abdul Kabir Khan and the petitioner Shri Abdul Gandhi Malik has appeared as his own witness also.

The respondent No. 1 produced the following 13 witnesses: Shri Ghulam Hassan, Shri Saif Din Mir, Shri Abdul Kabir, Khan Abdulla Joo, Shri Akhtar Ali

Khan, Shri Abdul Aziz Khan, Shri Sikander Khan, Shri Mohd Yaqub, Shri Faqir Mohd, Shri Sukhdev Ganjo polling agent on behalf of the Congress Syed Ahmed Shah, Superintendent police Baramulla, Shri Piarey Lal Raina Advocate, counting agent of the respondent No. 1, and the respondent No. 1 has appeared as his own witness:

The statements of some of these witnesses are very very long and no useful purpose will be served in summarizing these statements in the abstract. Reference would be made to the statement of the witnesses while dealing with any particular issue or group of issues where the evidence of such a witness is relevant for that issue or group of issues. Further more there are some issues which can be disposed of together. There will be grouping of issues according to their subject matter. About some issues the learned counsel for the petitioner has plainly admitted that no evidence has been produced with respect to them and they are issue No. 3 which pertains to the irregularities committed at Bamri Polling station; issue No. 4 (A and B) which pertain to the turning out of the agents of the petitioner immediately after the start of the poll at Oura polling station; issue No. 5 which pertains to irregularities at Anderhama polling station; issue No. 10 about marking of ballot papers by Ghulam Mohi-ud-din Boaru Presiding Officer; issue No. 18 which pertains to removal of the polling station at Tojar Pahlhar Zainageer from the school building to the house of the Congress worker; issue No. 19 which pertains to the removal of polling agents of the petitioner at Langate and Monabal; issue No. 21 pertaining to casting of dead persons votes at Maragam polling station and issue No. 43 which pertains to the change in the date of the polling station under directions of the Minister of State.

With these preliminary observations let me take up issues seriatim and groupwise.

Issue No. 1.—This issue has not been at all argued before me. After going through the affidavit in support of the petition, I do not find anything wrong with the affidavit presented by the petitioner. Therefore, this issue is decided against the respondent No. 1.

Issue No. 2.—consists of two parts, 'a' and 'b' and pertains to the rejection of the nomination papers of the respondent No. 2. Part (a) of this issue relates to the improper rejection of his nomination papers and part (b) whether the election of the respondent No. 1 is liable to be set aside on this ground alone.

For the disposal of this issue certain facts are necessary to be mentioned. As already stated three gentlemen stood for this constituency, the petitioner, and the respondents. The respondents were not voters registered in this parliamentary constituency. Respondent No. 1 was a registered voter in the Srinagar parliamentary constituency and he produced the relevant electoral roll of that constituency. The second respondents case is that he was a registered electoral in Jammu Constituency and his number is entry No. 302, House No. 71-B. When he presented his nomination papers on 20th January, 1967 before the Returning Officer, he did not file the relevant electoral roll then. He was asked by the Returning Officer, to produce the same and this respondent said that he would produce the same at the time of scrutiny. On the date of scrutiny i.e. on 21st January, 1967 he produced a roll which is marked Ex. P.W. 1/3. An objection was taken about this roll by the respondent No. 1. A further objection was taken that the signatures of the proposer on the nomination papers of this respondent were not genuine. After hearing arguments the Returning Officer rejected the nomination papers of this respondent. He has written a detailed order which can be summarised as under:—

The title cover of the roll was torn, the name of the ward, Mohalla, was missing. It was mutilated and five mutilations were found on this which in substance reveal that it was an electoral roll for an assembly constituency and by mutilation and by over writing in ink it has been turned into an electoral roll for the parliamentary constituency. It was not a complete roll even of Assembly as it consisted of only 17 pages without any indication of the amendments made or without any supplementary attached to it. The amendment part was missing. It was not a roll for the parliamentary constituency but for the assembly constituency. The seal of the parliamentary constituency roll was missing. The candidates name was properly entered at entry number 302. The rolls of the assembly and parliamentary constituencies were not indetical. The respondent No. 2 prayed for an adjournment to be able to produce the actual parliamentary roll in which he was entered as an elector. The Returning

Officer was prepared to adjourn the scrutiny to 23rd January, 1967, 22nd January, 1967 being a Sunday, but the candidate and his representative wanted at least four days to be able to produce the roll. The Returning Officer could not grant four days time to this respondent because under the rules he could not do so; moreover the last day of the withdrawal of the nomination papers was 23rd January 1967. Therefore, the Returning Officer came to the conclusion that the respondent No. 2 lacked the necessary qualifications under section 4(d) of the Representation of the People Act of 1951 and he accordingly rejected the nomination papers of the Respondent No. 2 and accepted the nomination papers of the.....petitioner and the respondent No. 1. This respondent's case further is that he was refused time as prayed for by him but he ultimately agreed to the adjournment to 23rd January, 1967. On 23rd January, 1967 the respondent came to Baramulla with the relevant electoral roll. He found that the Returning Officer was not there and that he had rejected his nomination papers although he had agreed to give him time. Then this respondent went to the Returning Officer of the Assembly Constituency Baramulla, who was the Addl. District Magistrate of that place. He produced before the A.D.M. the relevant portion of the parliamentary electoral roll, swore an affidavit and obtained a certificate from the A.D.M. which was attached with the original. The Returning Officer was not in Baramulla till 25th January, 1967. On his return this respondent produced the relevant roll, affidavit as well as the certificate of the A.D.M. to him.—The complete parliamentary roll presented by the respondent No. 2 on 23rd January, 1967 before the A.D.M. is marked as Ex. P.W. 141 his application to the A.D.M. is marked as 1/5 and the affidavit he presented before the A.D.M. at 4 P.M. on that day is marked as Ex. P.W. 1/6.

These are the facts so far as the rejection of the nomination papers of the respondent No. 2 is concerned. In the light of these facts we have to see whether his nomination papers were improperly rejected.

Mr. Bhasin, the learned counsel for the petitioners argument is that S. Sant Singh Teg is entered as a voter in the electoral roll at No. 302 house No. 71-B in Jammu parliamentary constituency. This entry is found in the Ex. P.W. 1/3 the roll presented at the time of scrutiny as well as in Ex. P.W. 1/1 the roll presented before the A.D.M. on 23rd January, 1967 and subsequently produced before the Returning Officer on 25th January, 1967. According to the Returning Officer, Shri Poshkar Nath, the electoral roll of the Assembly constituency was prepared and after final preparation of these rolls, they were treated as draft rolls for the parliamentary constituency. Later objections were invited and after the objections were received and decided, the rolls became final for the parliamentary constituency. He further states that ordinarily after receiving and disposing of the objections, we prepared the final parliamentary electoral rolls by making necessary corrections or by adding or deleting from the electoral roll. These then contained the corrections made by way of additions, deletions and modifications. Therefore, there can be no doubt that S. Sant Singh was a registered elector in the Jammu parliamentary constituency. Against this admission of the Returning Officer himself there is no evidence in rebuttal on behalf of the respondent No. 1. All that respondent No. 1 says is that S. Sant Singh did not produce the electoral roll of his parliamentary constituency in which he was registered as a voter before the Returning Officer on the day of scrutiny. The electoral roll produced by S. Sant Singh was examined by his counsel as well as by the Returning Officer and the Returning officer declared that this electoral roll was not that of the parliamentary constituency. Mr. Garg has however argued that 13(d) of the Representation of people Act, 1950, was amended by the Representation of People (Amendment) Act of 1966 and it lays down that:—

“The electoral roll for every parliamentary constituency other than a parliamentary constituency in the State of Jammu and Kashmir or in a Union territory not having a legislative Assembly, shall consist of the electoral rolls for all the assembly constituencies comprised within that parliamentary constituency; and it shall not be necessary to prepare or revise separately the electoral roll for any such parliamentary constituency.”

According to him this section makes a distinction in the case of the State of Jammu and Kashmir and the Union territory not having legislative assembly. The electoral rolls for parliamentary constituencies are to be prepared separately in the State and the assembly rolls shall not be accepted for the purpose of determining the eligibility of a voter for the parliamentary constituency.

Under the Representation of People Act of the State Section 12(1)(b) it is only the permanent residents who are entitled to vote for seats in the assembly. In the rest of India the same Representation of People Act applies to both Assembly and Parliamentary Constituencies. But in this State we have a separate Representation of People Act No. IV of 1957, which governs matters pertaining to the legislature of the State. Both counsel rely on the wording of this section 13(d) of the 1950 Act. Mr. Bhasin to the extent that the roll of the Assembly constituency shall be the roll for the parliamentary constituency and Mr. Garg on the exception made so far as this State is concerned. I do not accept the interpretation put by Mr. Garg on this section. No doubt the rolls for the assembly constituencies in this State are different from the rolls of the assembly constituencies in the rest of India because in the State the condition of permanent resident is a necessary qualification for an assembly voter. Therefore the necessity of making an exception in the case of this State. Otherwise as is clear from the statement of Shri Poshkar Nath the electoral rolls for the Assembly constituency have been adopted for the parliamentary constituency also as in the rest of India. This is one aspect of the matter.

The other allegation of Mr. Sant Singh is that he wanted four or five days time to produce the relevant electoral roll but the Returning Officer did not grant him time and actually he learnt about the rejection of his nomination papers on the 23rd January, 1967. This statement is not correct as it is otherwise proved and even admitted in the petition, in the statements of the petitioner; Shri Poshkar Nath Returning Officer and the respondent No. 1 and others that the nomination papers of S. Sant Singh were rejected on 21st January, 1967. The Returning Officer could not adjourn the scrutiny to more than 24 hours under section 36(5) which runs as under:—

“.....provided that in case (an objection is raised by the Returning Officer or is made by any other person) the candidate concerned may be allowed time to rebut it not later than the next day but one following the date fixed for scrutiny, and the Returning Officer shall record his decision on the date to which the proceedings have been adjourned.”

22nd January, 1967 was a Sunday and the Returning Officer allowed the maximum time under law to this respondent to produce the relevant electoral roll to which this respondent was not agreeable, therefore the Returning Officer had no alternative but to reject the nomination papers as he was not satisfied about the eligibility of this respondent to stand for election. The production of the correct electoral roll on the 25th January, 1967 or for that matter on 23rd January, 1967, is of no consequence because the nomination papers of this respondent had been rejected on 21st January, 1967.

It has been held in AIR 1954 Supreme Court page 510 that:—

“the attestation and satisfaction contemplated by section 2(1)(k) read with rule 2(2) of Election rules, 1951 must exist at the presentation stage. A total omission of such an essential feature cannot be subsequently validated any more than the omission of a candidate to sign at all could have been. The only jurisdiction the Returning Officer has at the scrutiny stage is to see whether the nominations are in order and to hear and decide objection. He cannot at that stage remedy essential defects or permit them to be remedied...”

The Returning Officer had to be satisfied at the time of the scrutiny that the candidate did not suffer from any disqualification and he has found that this respondent could not be eligible for contesting this election as he had failed to prove to the satisfaction.....of the Returning Officer that he was a registered voter in a different parliamentary constituency. Such a defect has been held by the Supreme Court in the case reported as 16 E.L.R. 450 to be not of an unsubstantial character and failure to produce the requisite copy of the electoral roll was held a valid ground for the rejection of the nomination paper.

Next we turn to the legal aspect of the case. Both the parties have relied upon an authority of the Supreme Court reported as AIR 1966 SC 1928. According to Mr. Bhasin this authority helps him because it lays down that if a candidate filed a copy of the electoral roll of the assembly constituency that copy is sufficient to show that he is an elector in a parliamentary constituency in which that assembly constituency is included. The argument that the copy failed in the present case did not comply with section 33(5) was nor a copy of

the parliamentary constituency must fail. The copy was of the Assembly constituency in this case and the candidate was an elector in the assembly constituency, he would be a candidate of the House of People also. So far as this argument of Mr. Bhasin is concerned, it has force, although Mr. Garg tries to distinguish it and says that it is not applicable to the State of Jammu and Kashmir because of the special wording of Section 13(d) of the 1950 Act. That part of the argument of Mr. Garg I have already considered and rejected.

The further argument of Mr. Bhasin that the electoral roll presented at the time of scrutiny by the respondent No. 2 is correct as it has been proved that the roll was incomplete, is not factually correct. The roll presented at the time of scrutiny Ex. P.W. 1/3 is definitely incomplete because it is not the final roll of even the assembly constituency. It does not contain any of the additions which are found in Ex. P.W. 1/1 it is important to note that this electoral roll Ex. P.W. 1/1 was also presented by this very candidate. It has four additional leaves in red ink, two leaves are concerned with the additions of names which were not included in the original roll, the third leaf shows the names of persons deleted which there are none, and the fourth leaf consists of the corrections made in the names etc. of the electors. The schedule which is appended to Ex. P.W. 1/1 is entirely missing from Ex. P.W. 1/3 which definitely shows that the electoral roll presented by the respondent No. 2 on the day of scrutiny was not a complete electoral roll. In this behalf the observations of their Lordships of the Supreme Court in the same ruling AIR 1966 SC 1928 referred to above may be quoted with advantage. Their Lordships after dealing with how the preparation of the roll has to take place hold that Section 33(5) requires a candidate to produce the whole of this part. It is not in dispute that he did not produce the whole of this part and the question is whether his failure to do so would result in the rejection of his nomination paper. In para II their Lordships lay down that:—

“the draft is first prepared. Thereafter claims and objections are disposed of. If any claim is admitted the name is included in the draft roll. If any objection is allowed, the name already in the draft roll (or may be in an earlier amendment) is deleted. This inclusion or deletion is made by publishing amendments to the roll and thereafter draft roll alongwith one or more amendments becomes the electoral roll of the constituency. It will be seen from this that where a name is excluded on an objection being allowed, the name is not scored out. What the rule provides, is that deletion of a name from a draft or even from an earlier amendment made by inclusion of the registration officer is included in the list of amendments published... This shows that when S. 33(5) requires that a copy of the relevant part of the roll may be filed or produced the copy is to be a complete copy alongwith all amendments, for it may be that even though a name may be included in the first amendment by the registration officer it may be excluded in the second amendment if the appellate officer has rejected the claim.”

Their Lordships further held that:—

“...therefore the copy produced by Wazir Singh not being complete, was not sufficient to enable the Returning Officer to decide whether he was qualified to stand or not for his name might have been deleted in the second list of amendments in which case he would not have been qualified. It is true that in actual fact it appears from the copy which was produced by the appellant before the Tribunal that Wazir Singh's name was not deleted in the second list of amendment: but that appears from the copy produced by the appellant before the Tribunal and not from the copy produced by Wazir Singh before the Returning Officer. Section 33(5) requires that it is the copy produced by the candidate which should show whether he is qualified or not and for that purpose a copy produced by the candidate should be complete whether it is of the roll or of the relevant part thereof... But the non-production of a complete copy of the relevant part is in our opinion a defect of substantial character for it makes it impossible for the Returning Officer to decide whether the candidate is qualified or not. Qualification for standing election is a matter of substantial character... In the present case we are of the opinion that the production of a copy of the electoral roll, which is incomplete is a defect of a substantial

character. This defect will invalidate all the nomination papers. The fact of this case are completely covered by this authority of the supreme court and therefore, it is clear that Ex. P.W. 1/3 produced by the respondent No. 2 at the time of the scrutiny not being a complete copy of the electoral roll, his nomination papers were properly rejected by the Returning officer Mr. Garg has drawn my attention to another supreme Court authority *re: Narbada prasad Vs. Chhagan Lal and ors.* Civil appeal No. 2 (NCE) of 1968 decided on 30th July 1968. In that case the candidate alongwith the nomination paper produced a certificate from the Tehsildar of Harda where he was entered as a voter to the effect that the candidate was entered as a voter at Aunkaran No. Harda 217, Electoral roll of 1966. Their Lordships held that the certificate was issued by an officer who was not proved to their Lordships satisfaction to have had the authority to issue a certified copy of the electoral roll: although an affidavit was appended with this certificate, their Lordships held that it was not a compliance with section 33(5) of the Representation of people Act and therefore, the nomination paper had been properly rejected. Their Lordships further remarked that:

"It is a well understood rule of law that if a thing is to be done in a particular manner it must be done in that manner or not at all. Other modes of compliance are excluded. We, however do not go by these small inaccuracies because again the law is that which can be made certain is certain, but the fact is clear that the requirements of s. 33(5) had to be and were not complied with. The rejection of the nomination paper of Ram Kishan by the Returning Officer was thus justified...."

A further finding in that case is also relevant in this case. In that case the candidate did arrive at 5 P.M. with the correct rolls although he had sent a telegram earlier that he was coming with the required evidence. Unfortunately both the telegram and Ram Krishan arrived after the rejection of the nomination paper and therefore their Lordships remarked that "the Returning officer could not recall what he had ordered."

About the other objection raised at the time of scrutiny about the genuineness of the signature of the proposer of this candidate, the Returning officer has given a finding in his favour.

It is therefore, clearly proved that the nomination papers of S. Sant Singh respondent No. 2 were not improperly rejected by the Returning officer. Both the parts of issue No. 2 are decided against the petitioner.

Issue No 7, Which runs as under:—

"Did Ghulam Mohi Ud Din Bohru, Labour Officer work for respondent No. 1 at his behest and for him in the Bandipore segment of this parliamentary constituency right from the day of the scrutiny and address meetings at Gamru Tehsil Bandipore, Aragam Tehsil Bandipore, Chiti Bandy Tehsil Bandipore to further the prospects of the election of the No. 1? O.P.P.

This issue is based on paragraph 7 of the election petition. The respondent No. 1 in his written statement denied any Government servant's participation in any public meeting or canvassing for him. It is further stated that within the knowledge or with the consent of at the behest of this respondent no assistance was rendered by any Government servant to further his election prospects. This issue is a complex one and consists of two parts. Part I is whether this Ghulam Mohi Ud Din Bohru is a gazetted officer within the meaning of section 123(7)(a). About his being a Labour officer who is a gazetted officer, there is enough evidence on the file. Ghulam Mohd. Mir P.W. 9, who was the Returning officer of the Bandipore Assembly constituency, after perusing the record stated that Ghulam Mohi Ud Din Bohru was Labour officer Gurez and he was also the presiding officer at Badwampora. Mohammad Afzal P.W. 16 states that Ghulam Mohi Ud Din Bohru Labour officer alongwith others, whose names he mentions, addressed gatherings on behalf of the Congress. These speeches were reported in Naya Sansar and also perhaps in Khidmat. Shri Abdul Kabir Khan P.W. 20 makes a statement to the same effect: but admits that he was not present in the meetings addressed by Ghulam Mohi Ud Din Bohru. The petitioner also makes a statement about Ghulam Mohi Ud Din Bhora being a gazetted officer of the Government

namely a Labour officer. Shri Makhan Lal P.W. 19 who is the news editor of daily Khidmat makes a statement that in the daily issue of Khidmat dated 12th February, 1967 there is a report about a meeting at Gomro Bandipore where one of the speakers is Ghulam Mohi Ud Din Bohru. He has asked the people vote in favour of the Congress. In another issue of the paper dated 11th February, 1967 there is a report of another meeting having taken place in village Aragam where Ghulam Mohi Ud Din Bohru is one of the speakers. These news papers are marked Ex. P.W. 19/1 and 19/3. In cross-examination this witness states that these despatches were not from our own correspondent, they were received by post and the witness cannot testify to the accuracy of these despatches. On behalf of the respondent No. 1, Saif Din Mir R.W. 2 denies Ghulam Mohi Ud Din having made any speech but he admits that he was not present on all these meetings. The respondent No. 1 states that he knows Ghulam Mohi Ud Din Bohru by name only. He has never seen him. He i.e. the respondent No. 1 addressed public meetings at Sogam, Karnah, Uri Tangamarg, and Handwara. He did not procure the assistance of any government servant nor did any government servant speak on these meetings. He had left the conduct of his election campaign to the Congress party. His election agent organized public meetings which were addressed by him, by his election agent, and some other congress workers. He admits that Khidmat is an official organ of the congress party. He did not read Khidmat regularly. These meetings were held not on a formally drawn up plan but from time to time future course of action was decided by him. When he was confronted with the three news items: about the news item Ex. P.W. 19/2 he says that it is correct. About Ex. P.W. 19/1 he cannot be sure and about Ex. P.W. 19/3 he admits that it is correct. Shri Piarey Lal Raina R.W. 13 who worked for this respondent in Handwara segment states that no government employee ever addressed a public meeting in Handwara during election days. Mr. Bhasin comments that the allegation is about Bandipore and not about Handwara segment, therefore, the statement of this witness is not relevant. From the evidence discussed above, I come to the conclusion that in fact Ghulam Mohi Ud Din Bohru did make a speech in a public meeting at Gamro during these election days which is marked as Ex. P.W. 18/1 and in another meeting of Aragam Bandipore marked as Congress party. His election agent organized public meetings which were addressed by him, by his election agent, and some other congress workers. He admits that Khidmat is an official organ of the Congress party. He did not read Khidmat regularly. These meetings were held not on a formally drawn up plan but from time to time future course of action was decided by him. When he was confronted with the three news items: about the news item Ex. P.W. 19/2 he says that it is correct. About Ex. P.W. 19/1 he cannot be sure and about Ex. P.W. 19/3 he admits that it is correct. Shri Piarey Lal Raina R.W. 13 who worked for this respondent in Handwara segment states that no government employee ever addressed a public meeting in Handwara during election days. Mr. Bhasin comments that the allegation is about Bandipore and not about Handwara segment, therefore, the statement of this witness is not relevant. From the evidence discussed above, I come to the conclusion that in fact Ghulam Mohi Ud Din Bohru did make a speech in a public meeting at Gamro during these election days which is marked as Ex. P.W. 18/1 and in another meeting at Aragam Bandipore marked as Ex. P.W. 19/3. In both these speeches he has stated that the Congress is an organisation which should be supported because this organisation has set itself for establishing an order in which the distinction between the rich and the poor shall be wiped out. I am not impressed with the argument of the learned counsel for the respondent No. 1 that Ghulam Mohi Ud Din Bohru did not participate in these meetings or with the statement of Shri Makhan Lal P.W. 19 that he cannot vouch safe about the contents of these news.

The next question is what is the effect of these speeches and how will it affect the election of the respondent No. 1. About Ghulam Mohi Ud Din Bohru's addressing a meeting at Chiti Bandi there is no evidence. The argument of Mr. Bhasin is that under section 123(7)(a) it is a corrupt practice if any candidate obtains or procures or abets or attempts to obtain himself or by his agent or by any other person with the consent of the candidate or his agent the assistance of a person who is a gazetted officer for furthering the prospects of his election. Mr. Ghulam Mohi Ud Din Bohru has been proved to be a gazetted officer of the Government. Admittedly respondent No. 1 was sponsored as a candidate by the congress party. It is further proved that this Ghulam Mohi Ud Din Bohru addressed the public meetings at Aragam and Gomro during the election days where in he advocated the cause of the congress party. The least that can be said is that this gentleman was acting with the active consent or at the request, put in the election petition as behest of the Congress party to further the prospects of the

respondent No. 1's election. Therefore, respondent No. 1 is guilty of a corrupt practice and his election should be set aside. According to Mr. Bhasin he will be deemed to be an agent of the respondent No. 1 or at least his election agent. He has argued that the concept of agency in election law has been given a wide connotation Mr. Bhasin commented upon the word "attempt", obtaining and procuring and sought to take assistance from the definition of the word "attempt" from the Penal Code and explained the dictionary meaning of the word "obtained" and "procured". He has further argued that agency can be by ratification which applied to the facts of this case that speeches were made by Ghulam Mohi Ud Din Bohru in favour of the Congress party respondent No. 1 never disassociated himself from those speeches but on the other hand took advantage of these and therefore, by ratification he was guilty of a corrupt practice. Before discussing the authorities on this subject it is necessary to make the following remarks. Assuming the newspaper account as correct, that Ghulam Mohi Ud Din Bohru participated in some public meetings advocating the cause of the congress it is not clear from these reports who this Ghulam Mohi Ud Din Bohru was. His official designation does not appear anywhere. Respondent No. 1 states that he does not at all knew him nor has he met him. Even if we assume that respondent No. 1 had occasion to read these newspaper items it cannot be attributed to him that he knew the full particulars about this Ghulam Mohi Ud Din Bohru. Secondly this Ghulam Mohi Ud Din Bohru has no where mentioned the name of the respondent No. 1. He has made a general statement in favour of the Congress party. In elections such things are not uncommon. People without being asked by either party to assist or held the party of their own accord out of their enthusiasm make propaganda for one party or the other. Requesting people to vote for a particular party is perhaps one of the fundamental rights guaranteed under the Constitution to every citizen because everybody has a right to express his opinion and try to convey his own views to others. The cru of the matter under section 123(7)(a) is that the services of the officers mentioned in that section must be obtained or procured or attempted to obtain or procure for furthering the prospects of a candidate's election by the candidate, or by his agent or with the consent of the candidate or his election agent. Unless these ingredients are proved no candidate can be held guilty of a corrupt practice under this section.

Mr. Bhasin has referred me to a number of cases both English and India. He has referred to what is known as Wakefield case (1874) 20 M & H 102. In this authority it is stated:—

".....by election law the doctrine of agency is carried further than in other cases. By the ordinary law of agency a person is not responsible for the acts of those whom he has not authorised, or even for acts done beyond the scope or agent's authority.....But if that construction of agency were put upon acts done at elections, it would be impossible to prevent corruption. Accordingly a wide scope has been given to the term."

In another case known as Great Yarmouth case (50 M & H 178) it was held that if a person although neither employed nor authorised he does to the knowledge of the candidate get votes, and the candidate accepts what he has done, and adopts it, then he becomes a person for whose acts the candidate is responsible. In another case known as Taunton case (108 M & H 181) it has been held that:—

".....in parliamentary matters we are not to consider the strict rule of common law agency generally established to this extent that a person is responsible for his agent for all that he does within the scope of his authority, but is not responsible for anything that he does beyond the scope of his authority.....But in parliamentary election law it has long been established that where a person has employed an agent for the purpose of procuring his election, he the candidate, is responsible for the act of that agent in committing corruption, though he himself not only did not intend it or authorise it but even *bona fide* did his best to hinder it."

In *Sudhir Laxman Hindre Vs. S. A. Dange*, reported as 17 E.I.R. 373, the Bombay High Court quoted a passage from Parker in his *Election Agent and the Returning officer* which is in the following words:

".. It is not necessary, in order to prove agency to show that the person was actually appointed by the candidate it is sufficient to show the conduct or connection of the parties the recognition by the candidate of the acts of the person alleged to be an agent or the absence of any disavowal of such acts. The various acts proved to establish

agency may each, taken singly, be insufficient and yet taken as a whole may be held to prove agency conclusively..... To establish agency, therefore, it may be unnecessary to show that the election agent himself knew of and accepted services voluntarily tendered; knowledge and acceptance by other persons in control of the election may be sufficient."

Further on they said :—

".....it is observed that though the law of agency as applied to election petitions has been differently expressed by different learned Judges all agree that the relation is not the common law one of principal and agent, but the candidate may be responsible for the acts of one acting on his behalf though such acts are beyond the scope of the authority given or indeed in violation of express injunction.....In our opinion this would represent the correct legal position regarding agency in elections."

In *T. C. Basappa Vs. Nagappa*, reported as 3 E.L.R. 197 it was held that: "The term 'agent' in election law has a wide significance. No authorisation or declaration in writing is necessary and agency has to be inferred from the circumstances and conduct of parties..... Agency in Election law is not the relationship of principal and agent but is more akin to the relationship of master and servant.....The fact of agency may be established by circumstances arising out of, general features of the case, the conduct and connection of the parties, the subsequent recognition of the acts of the supposed agent or at least an absence of disavowal of such acts."

Mr. Bhasin has argued that general canvassing has always been held to be strong evidence of agency and evidence which requires a very strong case to rebut it if it can be rebutted. He has further argued that attending meetings and speaking on behalf of the candidate may establish agency. In the case of a party candidate the prominent members of the party have been held agents of the candidate. He has referred to 11 E.L.R. page 448. That was a case where a car belonging to a Socialist candidate had been used for conveying voters to the polling station. In another case *Rajendra Prasad Yadav Vs. Suresh Chandra Mishra* 11 E.L.R. 223 a political party which sets up a candidate may be deemed to be his agent and the candidate may be held responsible for the corrupt practice committed by the workers of the said political party. The same was held in 19 E.L.R. 175 and 19 E.L.R. 358. In AIR 1960 Bombay 249 it was laid down that an election committee members of a party forming election committee for propaganda must be deemed to be the agents of the candidate.

These authorities do not help Mr. Bhasin's case; because as already indicated it is not proved firstly that Ghulam Mohi Ud Din Bohru worked under the behest of the respondent No. 1 secondly nor is it proved that the respondent No. 1 knew that he was a Gazetted officer of the Government; thirdly nor is it further proved that the newspaper items were brought to the notice of the respondent No. 1 and lastly this gentleman has not at all propagated for this respondent but he has made a general statement requesting the people to support the Congress party; because in his opinion that party could give a socialistic regime of society. Needless to state that the charge of a corrupt practice at elections is in the nature of a criminal case and the standard of proof that is required must be as in Cr. case. A few authorities which are pertinent to this subject may be mentioned.

In *Dharnidhar Mohopatra Vs. P. K. Das and others*, reported in 17 E.L.R. 222 was observed that :—

".....a political association existing for the purpose of a political party, advocating the cause of a particular candidate and largely contributing to his success, yet in no privity with the candidate or his agents and an independent agency acting on its own behalf would not be one for whose act the candidate would be responsible"

In that case even the Secretary of the P.S.P. was not held agent of candidates of the P.S.P. In *Bishwanath Upadhyay Vs. Har Lal Dar*, reported in 16 E.L.R. 405, it was laid down that in order to fasten the liability for a newspaper editor's acts on a candidate it is necessary to establish that the editor was acting as an agent of the candidate in connection with the election and that too with his consent. The same view taken in *Nani Gopal Swami Vs. Abdul Hamid Chaudhary*, reported in 19 E.L.R. 175, in another case *Chuni Lal Ken Vs. Radha Charn*

Sharma reported in 21 E.L.R. 320, it was held that the editor of a newspaper who published a speech made by another person supporting a particular candidate does not thereby become an agent of that candidate. In Jagan Prasad Rawat Vs. Krishna Dutt Paliwal, reported as 20 E.L.R. 433 the Allahabad High Court has gone to the extent of holding the fact that a person, who was a founder and Managing trustee of a newspaper and was in charge of the general polity of that paper and had also the power to appoint and dismiss the staff of the paper including the editor would not render him vicariously liable for the articles and the news item which appear in the paper even though he was not directly concerned with them and the publications were made under the authority and supervision of the editor working within the scope of his employment. But a mere voluntary speaker who makes a speech in favour of a particular party does not make him an agent of the candidate. See Londonberry case 1 o' M & H 276.

Taking into consideration all these authorities and keeping in view the finding of fact returned by me above, I think this issue be decided against the petitioner and is hereby so decided.

Issue No. 6: "Was the petitioner not allowed to have any counting agents at the time of counting of votes of Kupwara segment of parliamentary constituency? O.P.P."

With respect to this issue the following witnesses have been examined. Mr. Abdul Rashid Keng, counting agent of the petitioner P.W. 8, states that when the counting of Kupwara segment of parliamentary constituency started he submitted his appointment form as counting agent to the Assistant Returning Officer but he refused him admission and as such no counting agent was present there. Mr. Prakash Narayan an officer of the election commission visited Baramulla during counting days. We orally made complaints to him about counting of Kupwara. He talked to the Tehsil Education Officer, the Assistant Returning Officer and went away. No application for recounting of this segment was made. "Sham Jee, the Supdt. of Police used to interfere in the counting. By interference he meant that Sham Jee used to come and enter the counting hall and not permit the people to get in. Another witness Noor Mohd P.W. 8, who also was the counting agent of the petitioner, states that they were not permitted to enter the counting hall. On the first day of counting of Kupwara segment, he came at about 8-30 A.M. was not permitted to enter the counting hall. The Superintendent of police did not permit him to enter the hall. No complaint in writing or orally was made to the Returning Officer. The petitioner alone was informed. The witness further states that he did not know if Mr. Rugh Nath Kaul, Mr. P. L. Handoo, Mr. Abdul Rasid Keng and Mr. Gh. Mohd Sofi did attend the counting on behalf of the petitioner. The witness does not further know if anybody attended the counting of the Kupwara segment. Another witness Saif din P.W. 10, the Returning Officer of Kupwara Assembly constituency states that it is not correct that the counting agent of the National Conference party were not allowed to enter the counting hall. There were ten counting tables and on each table there was a counting agent on behalf of the National Conference party. He does not remember the names of those excepting of one whose name was Samir Singh. The ballot paper accounts were signed by this witness as well as by the counting agents of the National Conference and the Congress. The counting of Kupwara segment of Baramulla Parliamentary constituency took place at the Degree College, Baramulla. Nobody was allowed to interfere with the counting. The Superintendent of Police would come some time but he was not allowed to interfere with the counting. Counting was done before the representative of both the parties. After the counting the ballot paper account was prepared. Votes counted and signatures of the candidate's agents obtained. He referred to Ex. P.W. 10/D-1. Another witness Gh. Ahmed Dar P.W. 17 who was himself a candidate for Kupwara Assembly constituency but was defeated states that he tried to be present at the time of counting but the Supdt. of Police tore away his letter of authority. This witness does not know whether any counting agent on behalf of the petitioner was present in the counting hall. The supdt. of Police, Syed Ahmed Shah, popularly known as Sham Jee, and referred to by this name in this case has appeared as R.W. 11 and has denied the allegations of his having interfered in the counting at any stage. He further refers to the complaint made by S. Jodh Singh Ex. P.W. 1/75 and it was found that the complaint as contained therein was baseless. He has denied all allegations of mal practice at counting. He was there only to maintain law and order. I may however remark that this witnesses' statement has not inspired me as wholly trust worth.

The evidence produced by the petitioner in respect of this issue is not satisfactory. I shall have to make some general observations about certain matters which appear to me clear from the facts of this case but that will be done after the findings on different issues are returned.

In my opinion this issue is not proved by the petitioner. Apart from the general statements made by the witnesses for the petitioner, the Assistant Returning Officer of this segment of the parliamentary constituency P.W. 10 Saif ud din who has been produced as a witness by the petitioner himself denies the allegations made by the petitioner. The ballot paper accounts and the boxes have been sealed by his agents. Some of his witnesses for instance Noor Mohd P.W. 8 does not even know if anybody attended the counting of the Kupwara segment on behalf of the petitioner. Although according to Mr. Abdul Rashid Keng P.W. 6 Mr. Prakash Narayan was there. This specific complaint was not made to him nor was any application in writing made to him or to the Returning officer nor was any request made for the recounting of the votes of this segment. The ballot paper account Ex. PW 10/D-1 to D-10 have been produced by this Assistant Returning officer which shows the attestation of the counting agents of both the parties and for No 16 has also been prepared in respect of all the polling stations of this segment of this constituency. Therefore, in my opinion this issue is not proved by the petitioner.

Now comes issues 8 and 9. In my opinion issues Nos. 8 and 9 pertain to Gurez and Telal segment. These issues are allied with issues pertaining to Karnah segment of this constituency, which are issues 40, 41 and 42. As the allegations about both these segments is that due to heavy snowfall, torrential rains, votes could not be polled and the result that these two sections had presented should not be believed, I think they are more or less allied. So far as issues 8 and 9 are concerned, it is proved from the statements of Shri Prakash Narayan P.W. 2 and the Returning officer Shri Poshkar Nath P.W. 1 that the ballot boxes from the Gurez and Telal area were received as late as on 4th of March, 1967. On 22nd February, 1967, the Returning Officer and others did not know whether poll had actually taken place there. Reference may be made in this behalf to the log and signal messages received from the Naib Tehsildar Gurez namely Ex. P.W. 1/63 describing the physical movement impossible in that area. This would also appear from Ex. P.W. 1/64 etc. Therefore issue No. 8 is decided in favour of the petitioner. But mere late receipt of the ballot boxes would not by itself lead to the inference that the polling in these stations was held in contravention of the rules, orders, regulations under the representation of People Act, which have gravely prejudiced the prospects of the election of the petitioner. On the other hand clear communications that polling was held as required by the rules. Therefore issue No. 9 is decided against the petitioner.

After these issues, as already remarked, I take issues Nos. 40, 41 and 42 pertaining to Karnah segment of this constituency.

With respect to this group of issues the statements of the following witnesses of the parties are relevant. Shri Prakash Narayan P.W. 2 Shri Poshkar Nath Returning officer R.W. 1 Shri Gh. Nabi Baba P.W. 11 Shri Prithvi Nath Bhat P.W. 12, Shri Abdul Gani Malik petitioner, Kh, Abdula Joo R.W. 4 Kh. Akhtar Ali Khan R.W. 5, Shri Abdul Aziz Khan R.W. 6, Sikander Khan R.W. 7, Mohd. Yaqub R.W. 8, Khazir Mohd. R.W. 9 and the respondent No. 1.

Shri Prakash Narayan P.W. 2 states that counting of Karnah took place on the 5th day of March 1967. No counting took place on 4th March 1967 because boxes from Karnah were not received. Polling had not taken place in some portion of Karnah because of bad weather. The Returning Officer Shri Poshkar Nath states that the polling in 14 Stations of Karnah segment was held on 28th February 1967. Ghulam Nabi Baba P.W. states that it was snowing very hard on 21st February 1967. There was 4 feet of snow and he could not move from Kralapora to Sholpura even. No voting could take place on the other side of the Nafnusa pass. He saw Shri Ghulam Rasool Kar Minister going towards Trehgam with some people in a car. Shri Prithvi Nath Bhat Tehsildar Karnah states that he was held up at Nafnusa pass which is 9,000 feet high from 17th February 1967 to 23rd of February, 1967. The road was blocked and nine military officer were buried under snow. There were 23 polling stations on this side of the pass and 14 on the other side of the pass. In consultation with the Returning Officer, he fixed 26th February 1967 as the new date for poll in the 14 stations of the other side of the segment. Shri Prithvi Nath Bhat Tehsildar further states that the ballot boxes which were received on 15th February 1967 remained with him upto

23rd February 1967 or 24th February 1967 and he appointed the Government servants available in that area as the Presiding Officers for 14 polling stations. He says that receipts were obtained for the ballot papers and material from the Presiding Officers but no receipts were found coming from the record. This witness further states that he saw the election agent of the petitioner in this area on 26th of February 1967 who accompanied him to some of the polling stations but he does not remember his name. The letter of authority by the agent was shown to the witness but he has not kept it. He visited five polling stations when he reached Tangadhar the polling agents were there and working. It was not pointed out to him by any polling agent of the petitioner that the polling officer of any polling station had not reached on the date of poll. The respondent No. 1 states that he knew polling took place in Karnah on a date after 21st February 1967 but he did not go there. The Karnah witnesses namely Kh. Abdulla Joo, Shri Akhtar Ali Khan, Shri Abdul Aziz Khan, Shri Sikander Khan, Shri Mohd. Yakub and Shri Raqir Ahmed R.Ws. depose to the effect that poll took place in these fourteen stations of Karnah on the date later fixed. Some of the witnesses do not remember the date but they are sure that poll for this segment of the parliamentary constituency took place. Kh. Abdulla Joo R.W. states that there were two polling agents on behalf of the National Conference candidate Shri Akhtar Ali Khan who deposes about Teetwal polling station states there no polling agent of the petitioner was there. Shri Abdul Aziz Khan states that the polling agents of the petitioner were there and he names one of them as Mohammad Akbar. Shri Sikander Khan also names Mohd. Mir as the polling agent of the petitioner. Shri Mohd. Yaqub names Shamas Din and Nizam Din as the polling agents of the petitioner. Shri Faqir Mohd. also states that there was a polling agent of the petitioner. The petitioner as his witness states that there was heavy snow in the Karnah sector, the passes were closed. On 24th February 1967 at about 9-30 P.M. Ghulam Nabi Baba P.W. came to him with a notice informing him that polling in 14 stations of Karnah would take place on 26th February 1967. This notice is marked Ex. P.W. 1/17. On the back of the notice is the endorsement of the petitioner marked as Ex. P.W. 11/1 and Ex. P.W. 21/1 in which he says that the notice has been received by me on 24/2/1967 at about 9-30 P.M. through Kh. Ghulam Nabi Baba. The Natusapass is still under snow. As this place was inaccessible, the petitioner is wonder struck how he can make arrangement. Mr. Ghulam Rasul Kar, Minister of States has gone with his party towards Chockibal to instruct the Government machinery to help the other party. This is a strange election, Shri Ghulam Nabi Baba P. W. also states that he served this notice on the petitioner at 9-30 P.M. on 24th February, 1967.

The documents pertaining to this segment are Ex. P.W. 1/18 to Ex. P.W. 1/23, Ex. P.W. 1/26, to Ex. P.W. 1/37, Ex. P.W. 2/1 Ex. P.W. 1/D-1. Most of these letters are exchanges of communications between the Returning Officer, the Deputy Commissioner Baramulla and the Tehsildar of Karnah regarding the conditions of the weather, blocked of the road, receipt of the election material, intimation to the effect that no poll in 14 stations could take place on the 21st February 1967 and fixing 26th February 1967 as the date for the poll, signals from the concerned officers that poll had taken place etc. Ex. P.W. 2/1 is the telegram sent by the petitioner to the Election Commission, President of India wherein he has said that it is impossible to arrange election campaign in Karnah, polling was fixed for 26th February 1967, the mountain pass was closed due to heavy snow. Government machinery was already in motion, so on and so forth.

The argument of Mr. Bhasin with regard to this segment is that the polling in this segment was also scheduled to take place on 21st February 1967 but the Tehsildar Assistant Returning Officer of this segment of the constituency was held up at Natusapass from 18th February 1967 to 23rd February 1967. He could cross it only on 23rd February, 1967 or on 24th February 1967, on 24th February, 1967 information as given at 9-20 P.M. to the petitioner about the poll, which was scheduled to take place on 26th February 1967. The pass was still under snow, no arrangements could be made for conducting the election campaign or for poll. No poll had actually taken place there but fictitious votes were cast and the petitioner was handicapped. The information to the petitioner given on 24th February 1967 was an eye wash. In fact it was giving the petitioner no opportunity to contest the election in that segment. If the petitioner had been given due notice and sufficient time he would have swept the poll on that side of the pass. The form 20 which is Ex. P.W. 1/39 shows that the total number of votes polled in that sector of the constituency is 11520, 303 votes have been rejected as invalid. Out of these the petitioner has got 3175 and the respondent No. 1 8345 votes making a difference of 5170. In the petition the petitioner states that the change in

the date of this segment was made under the directions operation of the Minister of State, who was directing the operation of the election including the marking of ballot papers and casting the same in favour of the respondent No. 1. About this issue No. 43 consisting of two parts was struck but the learned counsel for the petitioner has conceded that there is no evidence about this issue. Therefore the whole thing has to be judged in the context of this allegations. Merely because Shri Ghulam Nabi Baba P.W. 11 saw Mr. Ghulam Rasul Kar Minister going in a car towards Chokidar would not make the inference possible that he directed the operation of the election including the marking of ballot papers. The petitioner has not produced any evidence that no voting took place in that segment. He basis the whole case on surmises and conjectures it is true that he may have some handicap in conducting the election campaign getting the voting supervised properly on 26th February 1967 in the 14 stations of Karnah on the other side or the Natnusalpass. As against these wild allegations and surmises I would say, there is the positive evidence of the Assistant Returning officer Shri Prithvi Nath Bhat Tehsildar P.W. who says that polling took place peacefully and even the polling agent of the petitioner was with him, who accompanied him to some polling stations also and there is also the statement of eight R.Ws. abovementioned who state that the polling took place in various stations of that part of the constituency as well as that the petitioner was represented at a number of stations by his polling agents. There is nothing to disbelieve this positive testimony. Apart from this fact there is no violation of any rule if a party is unrepresented at any polling station. In such elections where there are numerous polling stations, it may not be possible for the contestants to provide polling agents on all polling stations but the absence of a polling agent at a polling station would not make the poll illegal and against rules.

Therefore my findings on this group of issues is as under:—

Part of issue No. 40 is held in favour of the petitioner that the poll could not be held in that area on 21st February 1967 but the second part pertaining to the prejudice caused to the petitioner is not proved.

Issues No. 41 and 42 are proved from the statements of the witnesses above referred to

Issue No. 11 reads as under:

"Whether at Kunisha only two ballot boxes were used for the purpose of the polling? But at the time of counting of the ballot papers four ballot boxes instead of two were produced one ballot box containing not only ballot papers but also other documents not expected to be in the ballot paper box namely ballot paper account, paper seal account, presiding Officer's diary etc. Had the Presiding Officer falsely marked the ballot papers himself and cast votes in favour of the respondent. O.P.P."

It can be divided into following parts(1) whether only two boxes were used whereas four boxes were produced at the time of counting, one of them containing ballot papers etc. The other part pertains to the Presiding Officer's falsely marking the ballot papers and casting votes in favour of the respondent. The evidence about this issue is that of Shri Abdul Rashid Keng P.W. 8, Shri Mohd. Ramzan Dar P.W. 13, Shri Abdul Kabir Khan P.W. 20, Mr. Abdul Rashid Keng deposes about the counting and says that the total number of votes polled was 882 but the ballot papers found in the box were 885. A complaint was lodged before the Assistant Returning Officer Mr. Abdul Kabir Khan states that only two boxes were used for receiving ballot papers but four were actually found, some containing ballot papers account and other things on the day of counting. Both these gentlemen as well as the Presiding Officer Shri Mohd. Ramzan Dar P.W. state that in one box paper seal account, ballot paper account as well as the presiding officer's diary were put. Shri Mohd. Ramzan Dar further admits that although the total number of votes were 882 only yet 890 valid votes were found from these boxes which he cannot explain. This is the evidence the recovery of ballot paper account Presiding Officer's diary etc. from one of the boxes does not make any difference. It may be due to the inadvertence of the official's concerned but the recovery of 890 votes whereas polling strength of that station was only 882 is a suspicious circumstance. Though there is no evidence to show that the Presiding Officer marked and cast the votes himself for purposes of this case, it may be held that something wrong has taken place at this station. In this station the petitioner has secured 187 and the respondent No 1703 votes the result may be that 516 votes have to be deducted from the total number of valid votes polled by the respondent No. 1. The issue decided accordingly.

Issue Nos. 12, 13 and 14 and they are:—

12. Were polling agents of the petitioner at Kalsua Nathpora and panzigam in the segment of Parliamentary constituency not allowed to function, resulting in false votes being cast in favour of the respondent No. 1 O.P.P.

13. Did the Presiding Officer of Polling station Kalsua Nathpora permit the Lumberdar, Chowkidar of the area etc. to remain inside the polling stations to work for respondent No. 1 unauthorisedly thus materially affecting the result of the election of respondent No. 10. P.P.

14. At the polling stations mentioned in issue above were out of the total votes of 1628 as many as 1530 i.e. only 98 less from the total cast inspite of the fact that a considerable number of persons alleged to have cast their votes were either dead or absent from the station or were employed outside or had gone for Haj Pilgrimage O.P.P. The main contention of the petitioner about these polling stations is that the agents of the petitioner were not permitted to function, the Lumberdar and Chowkidar inside the polling station, out of 1628 votes as many as 1530 votes were cast although a number of persons were either dead or absent from the stations and hence could not vote. The evidence about these issues consists of the statements of Shri Abdul Hamid Shah P.W. 15, Shri Mohd Afzal Mir election agent of Shri Abdul Kabir Khan National Conference candidate for Bandipora assembly constituency, and the statement of Shri Abdul Kabir Khan P.W. Mohd Afzal Mir states that he was not permitted to enter the polling station. Some Dr. Saif Ud Din and Mohd Afzal Khan threatened him and he was got pushed out. Lumberdar and Chowkidar were present at the polling station. An application Ex. P.W. 1/68 was presented on 22nd February, 1967 in which various allegations were made. This application pertains to many other polling stations. This application was forwarded by the Returning Officer to the Assisant Returning officer Bandipora who conducted a shaw enquiry in the matter. Shri Abdul Kabir Khan P.Ws. statement is on the same lines. He further states that 26 votes were out of stations 20 were out of their home and about 200 did not vote at all. He has prepared lists about the dead people absent people so on and so forth. These are Ex. P.W. 20/1, 20/2, 20/3 and 20/4. This gentleman himself as a candidate for the assembly constituency Bandipore and did not put in any written application complaining about the irregularities. It is very difficult in the face or such evidence to arrive at any definite finding. The allegations are so extreme but the proof is scanty. The result is that these very serious allegations cannot be held to be proved. There is only one circumstance that a fairly high percentage of votes seems to have been cast in these two stations; but no credible proof has been adduced that the actual voters did not vote but somebody impersonated them. These issues are therefore, held as not proved.

Issues 15, 16(A) and (B)

These issues pertain to Ayatmulla polling station. The evidence consists of Shri Abdul Hamid Shah P.W. Shri Mohd Afzal Mir and Shri Abdul Kabir Khan. The presiding officer Shri Abdul Hamid Shah states that 537 ballot papers were issued and it is through some mistake that he has shown the ballot papers issued to voters as nil. Shri Mohd Afzal Mir states that more than 12 voters of this polling station did not exist. Shri Abdul Kabir Khan states that six voters were dead, one had gone to Haj and 35 were on duty and had gone out of station. No application was made in connection with this complaint. An enquiry was made about these grievances but the complaints were found to be baseless.

These issues, in my opinion, are not proved. Mr. Abdul Kabir Khan's statement that 35 persons were out of station on duty cannot be accepted as correct without the details of these people having been given. Therefore these issues are decided against the petitioner.

Issues No. 17, 20 and 22

These three issues have been taken by the learned counsel for the petitioner together and pertain to Haral segment of this constituency and polling stations Ganopora and Shaipora. The gravamen of these issues is that in the Haral segment impersonation and casting of votes by presiding officers was resorted to. About Ganopora polling stations although a certificate had been issued by the polling officer that only 200 people had cast their votes, 680 votes were recorded. At closed the poll immediate let after it started and removed the agent of the petitioner on false representations. In this behalf the evidence of Shri Peshkar Nath Kual Returning Officer, Shri Rashid Kong Shri Ghulam Shah P.W. 7 Shri Abdul Ahad Sheikh polling officer Shaipore Shri Ghulam Rasool Malla P.W. 18, an independent candidate of this assembly constituency, the statement of the petitioner

have been referred to by the learned counsel for the petitioner. Mr. Poshkar Nath states that a complaint was made about the polling station at Sahipora, a communication was received by this officer from the Chief Electoral officer, which is Ex. P.W. 1/43. Ex. P.W. 1/44 is the application signed by the representatives of both the candidates that the polling at Sahipora station was closed for some time. When this complaint was made it was sent to the Assistant Returning Officer, who made his report, which is Ex. P.W. 1/D-2 on the back of the letter wherein it is admitted that the poll was suspended from 11 A.M. to 1-30 P.M. There is another document Ex. P.W. 18/1 which is the order of the presiding officer issued to Shri Jahar Nath the agent of the petitioner. Shri Abdul Rashid Keng admits that there are signatures of the polling agents of the National Conference candidate P.W. Ghulam Shah counting agent of the petitioner states that he was present at the counting. Syed Ahmed Shah, who is known as Sham Jee, would threaten and this continued all the days of the counting. Shri Abdul Aha Sheikh polling officer of Sahipora admits that he suspended the poll because there was some dispute and later on resumed it when conditions became normal. Till the time of the dispute the polling agent of the petitioner was also present, Shri Ghulam Rasul Malla P.W. 18 states that at Sahipora the polling officer stopped the poll at 11 A.M. and give him a written order which is marked as Ex. P.W. 18/1. He was further given a certificate about Ganopora polling station that only 200 votes were polled but he has not produced that certificate. The poll was not resumed. He sent a telegram to Mr. Sundram, Election Commission, and informed the Deputy Commissioner also. At the time of counting of Sahipora votes he was present, he made an application that there were no signatures of the petitioner's agents on the paper seal account of Ganopora polling station. The petitioner also makes a similar statement. He had presented an application Ex. P.W. 21/2 which has been enquired into by the Assistant Returning Officer.

It is proved that the polling at Sahipora polling station was suspended for some time at about 11 A.M. and then resumed. It may be also correct that when the polling officer suspended the poll at 11 a.m. some of the voters may have gone back and not later on come to cast their votes. The total number of votes polled in this station is 353, rejected 9 and out of these the respondent No. 1 has obtained 298 and the petitioner 46. There can be at best a dispute about 252 votes by which the respondent No. 1 leads the poll. A legal argument in this behalf was addressed by Mr. Bhasin that under section 57 of the R.P. Act if it is not possible to carry on the election at any polling station on account of natural calamity or any sufficient cause, the Presiding Officer of such polling station shall announce the adjournment of the poll to a date to be later notified. If the poll is adjourned by the Presiding Officer he shall inform the Returning Officer forthwith. The Returning Officer has immediately to report the matter to the Election Commission who has to fix a fresh date and the votes cast at the election shall not be counted until such adjourned poll had been completed. According to Mr. Bhasin once the poll was adjourned, it had to be resumed with the previous approval of the Election Commission and counting could not be permitted till the poll at this station had been resumed. Mr. Garg the learned counsel for the respondent No. 1 interpreted the section as referring to a contingency when the poll is adjourned to a date: temporary suspension of the poll is not covered by this section. The number of votes by which the respondent No. 1 leads in this polling station is very small. I do not think that any categorical finding on the interpretation of this section is called for. But it would appear that this section envisages adjournment of a poll and not suspension for a short time.

Issue No. 23

This issue pertains to Brat polling station. About this issue the only evidence is that of S. Jodh Singh, who only states that when he visited Brat polling station at 3 P.M. the poll was stopped the polling agent told him that Ali Mohd. Reshi accompanied by 30 or 33 people had carried away the ballot boxes, in a jeep. The petitioner himself states what S. Jodh Singh told him. This is no evidence. The polling agents have not been produced and S. Jodh Singh's evidence is at best hearsay. Therefore, this issue is not at all proved.

Issue No. 24

It relates to Beotengo polling station. The only evidence referred to by Mr. Bhasin in this connection is that of the petitioner who says that his polling agent from Beotengo polling station had been removed, which means nothing. The so-called agent has not been produced. The issue is therefore, held to be not proved.

Issue No. 25

This issue pertains to Mr. Kaul supervising the polling at Rubin Ramhama etc. In this connection the only statement of S. Jodh Singh has been referred to by the learned counsel for the petitioner. S. Jodh Singh has no personal knowledge of what happened or what is attributed to Shri Ghulam Rasul Kar the then Minister. His statement is hearsay. So is the statement of the petitioner. This issue is therefore, decided against the petitioner.

Issue Nos. 26, 27 and 28

These issues relate to Uri segment of this parliamentary constituency. The learned counsel for the petitioner has referred me to the statement of the following witnesses with regard to these issues. Shri Poshkar Nath Returning Officer, Shri R. N. Kaul Advocate, Shri Ghulam Shah and that of the petitioner Shri Poshwar Nath Kaul's statement in this behalf is that the letter marked Ex. P. W. 1/74 which related to the change of the polling officers was received by him and sent to the Assistant Returning Officer Uri. The form 20 of this section was received on 5th March 1967 with a forwarding letter Ex. P. W. 1/83. In respect of some stations which will be mentioned later on the number of ballot papers issued to voters, used or un-used is not mentioned. Mr. Siraj Ud Din A.D.M. Baramulla was the Assistant Returning Officer of this segment. The Assistant Returning Officer could make changes in the polling officer. The petitioner did not make any complaint with regard to this. Shri R. N. Kaul who was the counting agent of the petitioner states that when counting of this segment was carried on, the Assistant Returning Officer was being given instructions from time to time by the congress party and he felt helpless at times. The ballot papers of the National Conference candidate were usually rejected. There was too much of dictation from one Mr. Ali Mohd Tariq, who was then a Minister of State, to this Additional district Magistrate Mr. Ghulam Shah P. W. State that when counting was going on the ballot paper account was not present and was not made available although he pressed for it. Mr. Abdul Gani Malik, the petitioner states that the ballot paper account was not presented at the time of counting. There was heavy rain in that sector. He complained to the Assistant Returning officer and the Returning Officer about the boxes being without paper seal and the votes cast in favour of the National Conference candidate were wrongly rejected. Mr. Prakash Narayan also has stated that some ballot papers were wrongly rejected and *vice versa* at the time of counting.

Mr. Bhasin's argument is that Mr. Siraj Ud Din A.D.M. is closely related to Syed Mir Qasim who very much figured at the time of counting. Secondly that form 20 of this segment was received by the Returning Officer on 5th of March 1967 after the counting which took place on 4th of March 1967. From this Mr. Bhasin argues that no actual voting took place in this segment, the result of the voting as shown in the final accounting should be brushed aside and not believed. In this segment it may be stated, that the total number of votes polled is 13688 out of which 130 have been rejected and out of the remaining, the petitioner has secured 2005 and the respondent No. 111553. About the rejection of votes the complaint cannot be genuine because it is only 130 votes out of 13688 that have been held to be invalid and further Mr. Prakash Narayan has not stated that it were the votes of the National Conference candidate alone which were rejected. The main grievance of the petitioner in this segment is about the late receipt of the form 20 and non specification of used and unused votes in polling stations 4, 11, 12, 13, 14, 15, 16, 17, 20 and 23. Both these aspects will be discussed separately after the finding on various issues is returned. In my opinion the petitioner has simply exaggerated the grievance in this behalf and therefore these issues Nos. 26 and 27 are decided against him.

About the grievance of the petitioner that Syed Mir Qasim the President of the Congress Party Shri Ali Mohd Tariq the then Minister for State Mr. M. L. Fotedar M.L.A. were present and interfered with the counting. This issue mentions only three names Syed Mir Qasim, Shri Ali Mohd Tariq and Mr. M. L. Fotedar. In evidence it has transpired that the allegations of the petitioner are against other gentlemen also namely Mufti Mohd Sayeed, Shri G. R. Kar and Sham Jee Superintendent of Police. I want to record a brief finding here on this issue but I shall have occasion to discuss it later.

From the evidence it appears that some gentlemen particularly Shri Ali Mohd Tariq, Shri M. L. Fotedar did exhibit some sort of violent behaviour at the time of counting. But the crux of the matter is whether their actions even though unjustified did materially affect the result of the respondent No. 1's

election. No such proof is forthcoming. Therefore, this issue is also decided against the petitioner.

Issue Nos. 29 to 36.

This group of issues pertains to the irregularities alleged to have been committed in the Lolab segment of this constituency. Before I deal with these issues, let me discuss the relevant evidence about them.

The statement of Shri Poshkar Nath Kaul Returning officer, Shri Prakash Narayan Secretary to Election Commission, Shri Bashir Ahmed the election agent of the petitioner, Shri Noor Mohd counting agent and that of the petitioner are relied upon by the learned counsel for the petitioner for this group of issues. Against this is the statement of the respondent No. 1 and Shri Piary Lal Raina an advocate of the Handwara who was the counting agent of the respondent. The counting of this segment took place on 3rd March 1968, there was some complaint made against the counting and the petitioner's party did not feel satisfied with the method of counting and therefore, they made some allegations to the Returning Officer. The Returning officer directed the Assistant Returning officer to look into the matter and carry out his instruction. The Secretary of the Election Commission Mr. Prakash Narayan had received a complaint from Bakshi Ghulam Mohamad about some malpractice having been committed at the counting. Mr. Prakash Narayan enquired of the Returning Officer where the Assistant Returning officer of the Lolab segment was. The Returning officer made enquires from the District Judge, Baramulla and the Additional District Magistrate, Baramulla about the whereabouts of this Assistant Returning officer, Shri M. L. Kaul who also was a Judicial officer but they could not give him any clue. He made anxious enquiries from the Treasury officer, Baramulla and Sopore about the deposit of ballot boxes of this segment but no ballot boxes were deposited there. Later on at in the night he personally came to the Returning Officer, both of whom went in question of this gentleman. They went upto Handwara and found no trace about this gentleman or the ballot boxes. Ultimately they got held of his brother at Handwara who accompanied them to Baramulla, the Assistant Returning officer's jeep was spotted near the house of the Additional District Magistrate, Baramulla where the Assistant Returning Officer had remained for the night. Enquiries were made about his conduct from this officer both by the Returning officer and the Secretary to Election Commission but he had no satisfactory explanation to give. The ballot boxes were in some bags which were got sealed by the agent of the petitioner and they were deposited then in the Treasury at Baramulla. This is the sum and substance of the statement of Shri Poshkar Nath Kaul Returning Officer and Shri Prakash Narayan Secretary to Election Commission. Shri Bashir Ahmed the petitioner's election agent adds something more to the story. According to him the counting went on up to 11 in the night. The Assistant Returning Officer put off the petitioner and his election agent and at about 11 in the night ran away leaving the record with Mohd Khalil B.D.O. who was the Assistant Returning Officer for that Assembly constituency. Then the police party under Sham Jee, the Superintendent of Police arrived and removed the boxes which compelled the petitioner's party to contact the Secretary Election Commission and the Returning Officer. The Form 20 was not completed in the counting hall that day. The petitioner made grievance of this fact to the Election Commission and the local Chief Minister but no copy of the complaints, which were alleged to have been sent by registered post or their postal receipts have been produced. Against this story. Mr. Piarey Lal advocate R. W. states that counting was carried on in presence of the counting agents of both the parties and nothing illegal was done during counting. The form 20 was not filled in his presence. This form 20 Ex. P.W. 1088 according to the Returning Officer was found in the pocket of the Assistant Returning Officer. This gentleman Shri Makhan Lal Kaul has not been produced by either party. Therefore, one cannot say what led him to stay with the Additional District Magistrate and not deposit the ballot boxes in the treasury as was required. I have to examine the facts abovesated which in my opinion are proved in the light of the issue framed on this subject. which issues were based on the averments in the petition. So far as issue No. 29 is concerned there is no evidence about it and so it is decided against the petitioner. About issue No. 30 there is not enough evidence except the statement of Shri Bashir Ahmed who states that the one time 233 votes obtained by the National Conference candidate were counted for the congress candidate and 83 secured by the congress candidate were counted for the National Conference candidate. There were other instances of such nature but no recount has been claimed so that the correctness

of this allegation could be verified. Even Mr. Prakash Narayan says that he did not think a recount necessary nor did he advise the Returning Officer to do so. This issue also therefore, stands not proved.

Issue No. 31 can at best be held to be proved to this extent that the Assistant Returning Officer left the hall leaving the papers in the custody of one Mohd Khalil B.D.O. About issue No. 32 it cannot be said that it has been clearly proved as would appear from my general remarks about this group of issues. Issues No. 33, 34, and 35 stand proved.

About issue No. 36 I would say that nothing has been shown how the election of the respondent No. 1 has been materially affected by some of these issues being held to be proved. The following facts are worthy of notice. The total votes that have been polled in this segment are 11,890 out of which 212 have been rejected as invalid and out of the remaining votes, the petitioner has secured 6,581 and the respondent No. 1 4,897 which shows that the petitioner has secured 1,684 votes more than the respondent No. 1 in this segment. In the first place there is no allegation that some fictitious votes were put in the ballot boxes in favour of the respondent No. 1 or some secured votes by the petitioner were removed from the boxes. If any mischief had been done in showing the result of the election of this segment then naturally enough the respondent No. 1 should have been shown to have secured more votes than the petitioner. But here the reverse is the case. There is no allegation about fictitious poll of votes in this segment. The only grievance is about counting if the petitioner suspected real foul play at counting he should have claimed a recount in this segment. This he has not done because he knew that his complaint was unfounded. We do not know what circumstances led this Assistant Returning Officer not to deposit the ballot paper in the treasury. Other observations pertaining to this segment will appear after the discussion of issues because those remarks are common to some stations of this segment as well as to others. Therefore, about issue No. 36 it is held that it has not materially affected the result.

Issue Nos. 37, 38 and 39.

This last group of issues pertains to Sonawari segment. The evidence pertaining to these issues is that of Shri Poshkar Nath Kaul, Shri Abdul Gani Malik petitioner, Shri Rugh Nath Kaul Advocate, and that of the R. W. 13 Shri Piarey Lal Raina Advocate. Shri Poshkar Nath states that it did not come to his notice that ballot papers in bulk were recovered from the ballot boxes in this segment. But in respect of stations 6, 12, 13, 23 and 37 the ballot paper account did not indicate the serial number of the ballot papers issued to the voters. According to the petitioner ballot papers were found in bundles. Keshobandho was the Assistant Returning Officer, the petitioner gave him two applications in respect of tampering of paper seal account of Hakbara and Shahgund station. Ex P.Ws. 21/3 and 21/4 are the reports of the concerned polling officers that everything was found in order. Form 20 was finally drawn up after counting, the counting was carried on regularly. Shri R. N. Kaul states that Shri Keshobandho was supervising the counting of this segment. The counting was not regular. The Secretary to Election Commission visited the counting hall. The ballot papers were found in bundles. They were mixed up. This was pointed out to the Secretary, Election Commission, 85 ballot papers were found in one bundle. When this was pointed out to the Assistant Returning officer, his reply was that they had fought for this very thing and no such objection should be raised. Certain irregularities were shown to the Secretary Election Commission who pointed to the Assistant Returning officer but Assistant Returning officer ignored them. Shri Piarey Lal R.W. states that both side raised objections about the validity and invalidity of ballot papers. The total votes polled in this segment are 21,503 out of which the petitioner has secured 7,487 and the respondent 13,354 and 664 votes have been declared invalid. Here the issues were based on the allegations in the petition. No cogent proof has been produced by the petitioner to discharge the onus of these strong allegations in the petition which have been adopted in these issues. Although it is stated that these irregularities were seen and pointed to Shri Prakash Narayan yet no such question has been put to him. It is true that some irregularities may have been committed so far as this segment is concerned but even if we assume Shri R. N. Kaul's statement as correct, although he is contradicted by the Returning Officer Shri Poshkar Nath who denies the allegations about ballot papers being recovered in bundles and no such question has been put to Shri Prakash Narayan, yet it is not at all proved how many votes were found in bundles. It appears that quite

a large number of votes which were found in bundles may have been rejected. The Assistant Returning Officer has not been produced as a witness by either side. Therefore, nothing can be said about the personal allegations made against him. Issue No. 37 is partly proved that some applications were made by the petitioner about irregularities having been committed at the time of counting but nothing of the sort as contained in the issue No. 37 has been proved conclusively.

Issue No. 38 also is not proved.

About issue No. 39 the record is not very clear to what extent and in what regard the instructions of the Returning Officer were discharged by the Assistant Returning Officer. Therefore, this issue also is decided against the petitioner.

I have returned a finding on the various issues involved in this case. Though on facts and on some legal points which have been briefly discussed earlier, the petitioner is not entitled to any relief yet as this case was argued with very great vehemence by Mr. Bhasin, I think it is necessary to make some comments on the general aspects of the case. Ordinarily an election petition should be decided on the strict construction of the pleading more so the petition because the petitioner has a heavy burden to unseat a returned candidate whose election will not be declared void unless the case as set forth in the petition is clearly established against him. In this case barring some minor points the findings on facts have been mostly against the petitioner. Therefore no further comment was called for. However Mr. Bhasin has argued that in this case the respondent No. 1 belonged to the ruling party. The officers concerned in this election have gone out of their way to help the respondent No. 1 and have committed grave irregularities or violations of the rules and orders made under the Representation of People Act. He has further argued that a clear and strict proof by positive and direct evidence on the allegations made in this petition may not be there because it is not at all possible to get such proof but the inference of non-compliance with the provisions of the constitution or rules and orders can be inferred from certain salient facts appearing in the evidence in this case. Though this part of the case is not strictly covered by the petition of the pleadings of the parties yet it has to be noticed and discussed. Mr. Bhasin's argument is that the officers involved in different activities pertaining to this election have mostly done things in contravention of the provisions of the Act and Rules. The common aim or object of these officers in committing irregularities was to win favours from the ruling party by supporting the congress candidate. He argued to start with the election campaign on the part of the Congress party was carried on by Government officers like Ghulam Mohi-Ud-Din Bohru and others. This is clearly proved through documentary evidence. The proof against the others may not be so clear but the inference is irresistible. So far as the actions of Ghulam Mohi Ud Din Bohru and such other persons are concerned, it reveals lack of administrative discipline but it would be a rather rash guess because respondent No. 1 belonged to the ruling party therefore, all the officers connected with the conduct of the election did things irregularly simply to win the favour of the powers that be. Such a conspiracy is neither clearly alleged in the petition nor is there any proof about the same. According to Mr. Bhasin the presumption should be that the officers did their official duties in a manner which was against the rules though the legal presumption will be that act have been properly done. For instance in Karnah sector Mr. Bhasin would like me to conclude that no poll had taken place and the whole show of producing the ballot boxes and other things would be a make show affair. Similarly with the non-observance of certain other formalities he would ask me to deduce that the whole process of voting and even counting has been fraudulent. For instance he has emphasised this point that on the following stations namely Bandipore segment stations No. 1, 2, 6, 10, 15, 17-a, 17-b, 18, 24-b, 27-25, 29, 31 to 35, 4322 Uri segment-station Nos. 4, 11 to 17, 20 and 23 Rafiabad station Nos. 1, 3, 5 to 8 11, 13, 19 and 32 Sonawari segmentation No. 6, 12, 23, and 31 Harelssegment, polling station No. 6, 7, 9, 11, 12, 19, 21, 25, 27, 30, 32 and 35 the ballot paper accounts have not properly entered either in Form 16 or Form 20. The number of papers issued or utilized is not indicated in these forms. Therefore, the votes that have been discovered in the ballot boxes of these stations should be held to be fictitious. This argument does not hold water and is on the face of it unsound because in the first place there is no allegation in the petition that ballot paper accounts have not been properly maintained; secondly there is not the slightest suggestion either in the petition or in the evidence that the ballot papers recovered from the ballot boxes of these stations were different from those ballot papers issued to

those Presiding Officers or Polling officers. Ballot papers have been issued by the Returning officer to different Presiding officers after getting proper receipts of the same. The returning officer has denied in the case of all of these polling stations that any complaint was made that the ballot papers supplied for these stations were not actually used or some other ballot papers were used. If there were some substance in the allegation of the petitioner then either there should have been a definite allegation that the ballot papers recovered from the boxes of these stations are not those which have been issued to these polling and Presiding officers. The main grievance of Mr. Bhasin can be held to be about the counting. Under the present system of marking once a ballot paper is issued to a voter, it can very well easily be ascertained in whose favour he has exercised the vote. After the votes are polled, there is not much prospect of malpractice at the counting because the whole matter can be verified by a recount. The petitioner, according to the Returning officer seems to have made a request at the completion of the constituency but he was directed to make his application more specific, after which he never made any further request for a recount. Unless a finding is returned that no election and no voting as such has taken place but the whole voting affair has been a fraud the case of the petitioner cannot succeed on some irregularities or omissions committed in the preparation of the ballot paper accounts or in the preparation of Forms No. 16 and 20.

No doubt some forms are incomplete and in my opinion it is so due to the incompetence or inexperience of the officers responsible for preparing the said papers. This omission Mr. Bhasin terms as contravention of rules and regulations. In my opinion regard being had to the circumstance of the case, the omissions to keep the ballot paper accounts or even late submission of forms 20 in respect of Uri and perhaps Lolab sector also is at best a technical lapse on the part of these officers. It cannot be held to be either an intentional act done with the purpose of fabricating documents or even if it is held to be a non compliance of the rules it is not of a substantial character. It may be remarked that after the ballot papers had been deposited there could be no occasion or opportunity for these Assistant Returning officers to prepare fictitious forms 20. This could only be possible if the whole machinery of officers connected with the elections at least in the state were in collusion and had conspired together.

Mr Bhasin has sought to set aside the election of the respondent No. 1 on three main grounds: firstly that the nomination papers of the respondent No. 2 had been wrongly rejected. I have already discussed that aspect of the case and held that allegation is not proved, secondly his attack was that respondent No. 1 was guilty of a corrupt practice in as much as he employed the services of one Ghulam Mohi Ud Din Bohru and other government officers to further the prospects of his elections. That also I have decided as not proved. The last attack of Mr. Bhasin is that the result of the election in so far as it affects the election of the respondent No. 1 has been vitiated by non-compliance with the provisions of the Constitution or of Representation of People Act or of any rules and orders made under section 100(1)(d)(iv). He brings the irregularities alleged by him under this part of the section. Firstly I shall proceed to summarise the irregularities.

(A) that the ballot paper accounts were not prepared in polling stations in various different segments of this constituency detailed earlier simultaneously with the deposit of the ballot papers.

(B) He was denied opportunity to fight the election in 14 stations of Karnah on the other side of the Nathusapass, as the pass was impassible and no arrangements could be made;

(C) That in some areas of Gurez and Telal arrangements for fighting the election could not be satisfactory because of snow and rains;

(D) That at the time of counting persons who could not be permitted in the counting hall were there and they seriously interfered with the counting. He has in this behalf laid particular emphasis on the statement of Shri Poshkar Nath Kaul who states that at one time Mufti Mohd Sayed and Shri M. L. Fotedar created disturbances in the counting hall and even threatened the Returning officer. The Superintendent of Police Syed Ahmed Shah known as Sham Jee also was found in the counting hall though this gentleman has appeared as a witness on behalf of the respondent No. 1 and denied the allegations. Mr. Prakash Narayan has admitted the presence of this gentleman some time in the counting hall and he says that some time votes were wrongly rejected or accepted.

(E) The general behaviour of the Government employees engaged in this election in trying to help the respondent No. 1 in his election campaign at the time of poll and at the time of counting.

These are the main contentions of Mr. Bhasin's argument. So far as this aspect of the case is concerned, he has in this behalf referred to a number of authorities mentioned below :—

Durga Shankar Vs. Thakur Ragharaj Singh, reported in 9 E. L. R. 494 in which their Lordships of the supreme Court have held that.

"there is no material difference between 'non compliance' and 'non observance' or 'breach' and this item may be taken as a residuary provisions contemplating cases where there has been infraction of the provisions of the Constitution or of the Act but which have not been specifically enumerated in the other portion of the clause."

Under English Law if there is non-compliance with the provisions of the election law, the returned candidate has to show that the result has not been materially affected. But under the Indian law as it stands at the present moment, the petitioner has to show that by such practices or non observance of rules etc. the result of the election the returned candidate has been materially affected. Non-compliance with the provisions of the Constitution, the Representation of People Act, and rules and orders that under invalidate the election only if it has materially affected the result of the election: see *Mahadev Joo Joshi Vs. Raj Bog Padrungh Nathu* 13 E.L.R. 430 and *Champa Devi Vs. Jamma Prasad & ors.* 15 E.L.R. 443. In 15 E.L.R. 443 it has been further held that:—

".....the fact that ballot papers that had been issued to voters have not been accounted for, does not bring the case within the purview of section 100 (1) (d) (III) of the Representation of People Act as it is possible that the voters who had taken them might not have made use of it....."

Mr. Bhasin has further argued that for establishing that the result has been materially affected direct evidence is seldom available. It is difficult for the petitioner to discharge the burden of proof in this behalf in strictness and as such as finding of fact that the result of the returned candidate has been materially affected can be arrived at from the inference of the circumstances and probabilities where direct evidence is not available. 8 E.L.R. 66 Quoting from *Doabida's Election Law* page 169, he argued that in order to prove that the result of the Election was materially affected it is not necessary to prove that the successful candidate could not have been elected but for the practice found to have been corrupt and it is sufficient that the majority would have been substantially reduced. But it has been held that the petitioner is bound to produce such evidence as would lead to the inference that the result of the election of the returned candidate has been materially affected. In *Vashisht Narain Sharma Vs. Dev Chand and others* 10 E.L.R. 30 their lordships of the Supreme Court observed that:—

"...the words materially affect seem to us to indicate that the result should not be judged by the mere increase in the total number of votes secured by the returned candidate but by proof of the fact that the wasted votes would have been distributed in such a manner between the contesting candidates as would have brought about the defeat of the returned candidate...."

Their Lordships envisaged three situations; the second of which is "where the person referred to has secured more votes. In this behalf their lordships remarked that the petitioner in such a case is confronted with a difficult situation, it is not possible to relieve him of the duty imposed upon him by section 100(1) and hold without evidence that the duty has been discharged. He has also cited *Doabias Election Cases Vol. II 265 Case No. 161 Re. Salem and Coimbatore Cum North Arcot* where it was held that when the change of site of a polling station was not sufficiently advertised it was held that the irregularity disenfranchised a portion of the electorate and therefore it materially affected the result of the election. He referred to another case reported as 8 E.L.R. 66 *Subramania Gounder Vs. Election Tribunal of the Madras High Court* where their Lordships discussed some formulas and the third formula according to Mr. Bhasin fits in with this case and it is to

this effect that it is for the Tribunal to come to a conclusion on the facts put before it and the probabilities arising therefrom. In arriving at conclusion on this basis the oratrical considerations may enter, but nonetheless the finding is one of fact. He emphasised the observations but there may be cases where irregularities are of so serious nature and the consequences so obvious that the observance of the indications to the contrary it will be by itself be taken to have materially affected the result, without any speculative calculation to see if the majority in favour of the returned candidate would not have been obtained in the absence of such nonobservance. It was in regard to such cases that the view taken in Istington case 5 of M&H 120 that if upon the transgression of the law by the officials being admitted or proved the court sees that it is open to reasonable doubt whether these transgressions may not have affected the result, the court is then bound to declare the election void.

In another authority cited as 4 E.L.R. 73 the election was set aside where polling started late in several polling booths but was closed at the appointed hour resulting in a large number of votes not being polled. In 8 E.L.R. 465 where voters were asked to stand in a queue and those standing in the queue outside the gate were prevented from entering the compound and voting the election was set aside.

In 4 E.L.R. 73 where several registered voters were not allowed to vote, the returned candidate had secured 92 votes more than the other candidate, the election was set aside.

In 7 E.L.R. 198 Form No. 10 prepared at several polling stations were fictitious, there was serious manipulation of ballot papers, the provisions of rule 83 were not observed and it was difficult to ascertain the exact number of votes polled by each candidate, the election was set aside.

Mr. Bhasin also referred me to AIR 1969 Assam 128 where a polling station was changed and a considerable number of voters could not by this change poll their votes, the election was set aside.

There is yet a whole host of case where irregularities as discovered in this case have not been held to materially affect the result. Rikhalidas Vs. Ridhi Chand Palliwel 9, E.L.R. 115 where it was held that preventing the entry of a candidate to a polling booth is a non-compliance of rules but an election cannot be set aside on this ground unless it was further proved that the election was materially affected thereby the burden of which was upon the petitioner. In Nitharendh Dutt Mazumdar Vs. Sudhir Chandra 6 E.L.R. 197 it was held that mere fact that some ballot papers issued to voters were unaccounted for is not a ground for setting aside election. Nor is the finding of an empty ballot box of a different type and colour somewhere within the constituency a ground for setting aside an election. In 3 E.L.R. it was held that in the absence of any evidence raising a presumption of any stuffing or misconduct on the part of the Returning officer in favour of any particular candidate a mere excess of few ballot papers in the boxes of a booth is not a ground for setting aside an election.

The respondent No. 1 has secured 101769 and the petitioner 81254 votes. There is a margin of 20515 between the votes of the contestants. According to me the irregularities proved are with respect to Kunisa and Shahipora polling stations about which irregularities can be deemed to have been committed. The votes which may be deducted from the votes of the Respondent No. 1 are 516+252=768. This will still leave a huge number of votes by which the respondent No. 1 has defeated the petitioner. Unless it is held that the whole election was fraud, manipulated by the official machinery of the Government, who acted in concert the election cannot be set aside. But in this respect as remarked at appropriate places, the petitioner has failed to prove his case. Some of these officers namely Sarvashree G. M. Mir, Returning Officer Bandipore, Assembly Constituency. Saif Ud Din Saif Returning officer Kupwara Assembly constituency Gulam Nabi Baba Returning officer Karnah, Prithvi Nath Bhat, Tehsildar Karnah, Mohd Ramzan Dar presiding officer Kunich polling station Abdul Ahad Seikh polling officer, Sahipora station, Ab. Hamid Shah presiding officer Layatmulla polling station, have been produced by the petitioner himself as his witnesses. They were not even declared hostile nor was any such suggestion of malpractices by them even put to any of these gentlemen. It may no doubt be true that some officers may have not discharged their duties properly or by their behaviour may have shown some sort of undue interest in or enthusiasm for the Congress party or its candidate or may

have been mismanaged things to some extent but that by itself would not prove a conspiracy of the Government officers to see the official candidate returned and the petitioner defeated. Similarly the actions of some of the Congress workers and leaders like Mufti Mohd Sayeed, Mr. M. L. Fotedar Shri Ali Mohd Tariq may be objectionable but such over enthusiasms by itself would not be sufficient to hold that the result of the whole election has been cooked where for the election of the returned candidate must be set aside. Such over enthusiasm and indiscreet actions on the part of some Government officer or the workers of the Congress party are matters which the Government and organization will look to but so far as the decision of this case is concerned they have no material bearing to earn a finding of setting aside the election in favour of the petitioner.

Similarly I do not place much credence on the argument of the learned counsel for the respondent No. 1 that most of the witnesses for the petitioner are partisan witnesses, some of them were candidates for election themselves but were defeated and some others were their agents and yet others were intimately connected with such candidate and therefore they should not be believed. I have not straight way disbelieved any witness. It may be that I think due to their over enthusiasm or party allegiance they made much of certain happenings and events at the time of election or even at the time of election or even at the time of counting. They may have judged all the actions from their stand point and given their picture of the events which may be an exaggerated version of some incidents.

About the delay caused in the disposal of this case, although I tried my best to furnish this case within the time prescribed ordinarily for the disposal of such petitions but as well be clear from the order sheets, circumstances and events and exigencies arose, which delayed the disposal of this case. My order detailed and I need not recapitulate the history of the proceedings in this case. In the end I do not find that this election petition can succeed and is hereby dismissed, but the petitioner had some reason to suspect foul play and other mal-practices on the part of the returned candidate and the Congress party, therefore he should not be made liable for costs. The parties will, therefore, bear their own costs.

An intimation of the substance of the decision of this case shall be communicated to the Election Commission, to the Speaker of the Lok Sabha and an authenticated copy of the decision shall also be sent to the Election Commission.

SRINAGAR,

November 11, 1968

(Sd.) J. N. BHAT.

[No. 82/4/J&K/HP/68.]

New Delhi, the 19th March 1969

S.O. 1925.—In pursuance of section 116C (2) (b) of the representation of the People Act, 1951, the Election Commission hereby publishes the Judgment pronounced on the 24th February, 1969, by the Supreme Court of India, New Delhi, in election petition No. 45 of 1967.

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1517 OF 1968

H. V. Kamath—Appellant.

Versus

Ch. Nitiraj Singh—Respondent

JUDGMENT

BACHAWAT J.—

This appeal is directed against the judgment of a Single Judge of the High Court of Madhya Pradesh dismissing an election petition for setting aside the election of the respondent Chaudhury Nitiraj Singh to the Hoshangabad Parliamentary Constituency No. 27. The appellant was the Praja Socialist Party candidate with the election symbol "hut". The respondent was the Congress Party

Candidate with the election symbol "Two bullocks with yoke on". The voting took place on February 20, 1967. The votes were counted on February 21 and February 22, 1967. The respondent having got a majority of about 20,000 votes was declared duly elected. The petition charged the respondent with several corrupt practices. The appellant now presses before us only the charge under paragraph 5(i), (ii), (iii) and (iv), paragraph 5(v), paragraph 6 and paragraph 7(ii).

At the time of the election, the Congress Party, was in power and the Chief Minister Shri D. P. Mishra belonged to the Congress Party. In November 1966 the respondent was nominated by the Congress Party as its candidate for the Hoshangabad Parliamentary Constituency. The substance of the Charge as made in paragraph 5(i), (ii), (iii) and (iv) and as pressed before us is that on December 23, 1966 the Government of Madhya Pradesh headed by Shri D.P. Mishra promulgated an Ordinance No. 19 of 1966 exempting agriculturists holding land less than 7.50 acres or paying land revenue not exceeding Rs. 5/- from payment of land revenue, that Shri D.P. Mishra as the agent of the respondent and with his consent made speeches at Narsinghpur and Piparia on February 16, 1967 announcing the benefit of such exemption and that the respondent thus committed the corrupt practice under s. 123(1)(A) of the Representation of the People Act, 1951. The evidence shows that the question of exemption of non-economic holding from payment of land revenue was being agitated for some time past. Towards the close of 1966 a resolution was moved by the members of the opposition parties in the Madhya Pradesh Vidhan Sabha urging such exemption. But no bill to that effect was then passed. The Government reconsidered the matter and when the Vidhan Sabha was not in session it passed Ordinance No. 19 of 1966 granting the exemption. The Ordinance was later replaced by Act No. 6 of 1967 which was published on April 26, 1967. The exemption was advocated by the Praja Socialist Party also and was welcomed by all parties. Nevertheless on the eve of the election the opposition parties started a campaign stating that the object of the exemption was to forfeit the land to the state and raised the slogan "Lagan Naaf famlin Saaf". The propaganda was refuted by the Congress Party. In an election speech on February 16, 1967 Shri D. P. Mishra raised the slogan "Lagan Maaf Sab Party Saaf". His object was to tell the voters that the exemption should be granted and that the opposition parties should be routed in the election. It also appears that one Shri S. K. Dixit a member of the Congress Party published a pamphlet Ex. P-2 on or about February 7, 1967 refuting the false propaganda that the exemption was temporary and was granted with a view to forfeit the lands and urging the electors to vote for the congress. On the materials on the record it is impossible to hold that the respondent committed the corrupt practice under s. 123(1)(A). The Ordinance was passed by the Government of Madhya Pradesh. As a result of the Ordinance a large number of agriculturists got exemption from land revenue. Such an exemption does not amount to a gift, offer or promise of any gratification within the meaning of s. 123(1) (A). Nor is it possible to say that the government was the agent of the respondent. It is true that the Congress Party was then in power. But the exemption was not given by the Congress Party. It was given by the Ordinance which was passed by the Government. Nor does the announcement of the declaration at the meeting held on February 16, 1967 or by the pamphlet Ex. P-2 carry the matter any further. On the materials on the record it is not possible to say that either Shri D. P. Mishra or Shri S. K. Dixit acted as the agent of the respondent. The charge under paragraph 5(i), (ii), (iii) and (iv) is not established. Some additional embellishments of the charge were dealt with by the learned Judge and they were not pressed before us.

The substance of the charge as laid in paragraph 5(v) and as pressed before us is that on the eve of the election the Government of Madhya Pradesh headed by Shri D. P. Mishra declared that Class III and Class IV government employees would get increased dearness allowance from April 1, 1967 according to the rates sanctioned for Central Government employees, that Shri D. P. Mishra with the consent of the respondent and as his agent announced the grant of these benefits at the meetings held on February 16, 1967 at Narsinghpur and Piparia and that the respondent thus committed the corrupt practice under s. 123(1)(a). It appears that Class III and Class IV employees gave a notice to the government stating that they would go on strike with effect from February 13, 1967. Without their co-operation the entire election would have been at a stand still. The Government thought that the demand of the employees for increased dearness allowance was legitimate and therefore announced on or about February 11, 1967 its decision to grant the increased dearness allowance with effect from April 1, 1967. The grant of the increased dearness allowance cannot be regarded as a gift, offer or promise of any gratification within the meaning of s. 123(1)(A) nor is it possible to say that the Government or Shri D. P. Mishra was the agent of the respondent. The announcement of the grant of the increased dearness

allowance at the meeting held on February 16, 1967 does not carry the matter any further. The charge under paragraph 5(v) is not established.

The charge under paragraph 6 is that the respondent or his agent distributed dummy ballot papers with the respondent's name and his election symbol of "Two bullocks with yoke on" and, also the appellant's name without his election symbol printed thereon, that these papers conveyed to the voters the impression that the applicant had withdrawn his candidature, that the appellant and his agents on the eve of the election told the voters that the appellant had withdrawn his candidature and that the respondent thereby committed the corrupt practice under s. 123(4). The evidence shows that dummy ballot papers as mentioned above were printed and distributed on behalf of the respondent. Such dummy ballot papers were in contravention of the instructions issued by the Election Commission of India. The appellant's name should not have been printed in them. But it is impossible to say that the dummy ballot papers conveyed to the voters the impression that the appellant had withdrawn his candidature. On this issue the appellant examined P.W. 6, P.W. 7, P.W. 10, P.W. 23, P.W. 25, P.W. 27, P.W. 29, P.W. 30, P.W. 31 and P.W. 32 and the respondent examined R.W. 2, R.W. 3, R.W. 11 and R.W. 13. In agreement with the learned Judge we do not accept the statement of the appellant's witnesses that on the eve of the election the respondent and his agents informed the voters that the appellant had withdrawn his candidature. The voters know that there were two candidates in the field, viz., the appellant and the respondent. Even on February 16, 1967 Shri D. P. Mishra stated that the appellant was contesting the election. The respondent carried on a vigorous election propaganda until February 18, 1967. If the respondent or his agent had informed the voters that the appellant had withdrawn his candidature it was not likely that such intensive propaganda would be carried on until that date. The charge under paragraph 6 is therefore not established.

The charge under paragraph 7 (ii) was that Chaudhary Diwan Singh, the Station House Officer at Sohagpur, and a member of the police force in the service of the government, with the consent of the respondent actively canvassed for the respondent and that the respondent thereby committed corrupt practice under s. 123(7). To prove this charge the appellant examined P.W. 3, P.W. 4 and P.W. 9. Chaudhary Diwan Singh and the respondent denied the charge. For the reasons given by the learned Judge, it is impossible to accept the testimony of P.W. 3, P.W. 4 and P.W. 9. Their evidence does not ring true. P.W. 3 never spoke to anybody that he was asked by Chaudhary Diwan Singh to vote for the respondent. It is not likely that Diwan Singh would approach P.W. 4. It is impossible to believe that P.W. 9 could overhear a conversation between Diwan Singh and the respondent when the respondent is said to have asked Diwan Singh to canvass for him. The charge under paragraph 7(ii) is also not established. In the result, the appeal is dismissed with costs.

(Sd). S. M. SIKRI, J.

(Sd.) R. S. BACHAWAT, J.

(Sd.) K. S. HEGDE, J.

February 24, 1969.

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1517 (NCE) OF 1968.

Appeal under section 116-A of the Representation of the People Act, 1951 from the Judgment and Order dated the 13th March 1968 of the Madhya Pradesh High Court (Indore Bench) at Indore in Election Petition No. 45 of 1967.

Shri Hari Vishnu Kamath, s/o. Shri Ram Kamath,
resident of Dhantoli, Nagpur-1, at present
Resident of Suite No. 67, Western Court, New Delhi—Appellant.

Versus

Choudhary Nitiraj Singh, s/o. Choudhary Daulat Singh,
Advocate, Narsinghpur (Madhya Pradesh).—Respondent.

Coram.

24th February, 1969

The Hon'ble Mr. Justice S. M. Sikri

The Hon'ble Mr. Justice R. S. Bachawat

The Hon'ble Mr. Justice K. S. Hegde

For the Appellant: M/s. K. A. Chitley, Y. S. Dharmadhikari, S. S. Khanduja and K. B. Rohtagi, Advocates

For the Respondent: Mr. G. N. Dikshit, Advocate.

The Appeal above-mentioned being called on for hearing before this Court on the 17th and 18th days of February 1969 UPON hearing Mr. K. A. Chitley, Counsel for the Appellant Counsel for the Respondent not being called upon to argue the Court took time to consider its Judgment and the appeal being called on for Judgment on the 24th day of February 1969 THIS COURT DOTH ORDER (1) THAT the Appeal above-mentioned be and is hereby dismissed (2) THAT the Appellant herein do pay to the Respondent herein his costs of this Appeal incurred in this Court (3) THAT the costs of this appeal incurred by the Respondent herein in this Court be taxed by the Taxing Officer of this Court AND THIS COURT DOTH FURTHER ORDER that this ORDER be punctually observed and carried into execution by all concerned.

WITNESS the Hon'ble Mr. Mohammad Hidayatullah, Chief Justice of India at the Supreme Court New Delhi this the 24th day of February 1969.

Sd- M. P. SAXENA, Dy. Registrar.

[No 82/MP/45/67.]

By Order,

K. S. RAJAGOPALAN, Secy.

MINISTRY OF PETROLEUM AND CHEMICALS, MINES AND METALS

(Department of Petroleum)

New Delhi, the 12th May 1969

S.O. 1926.—Whereas by a notification of the Government of India in the Ministry of Petroleum and Chemicals S.O. No. 1074 dated 11th March, 1969, under sub-section (1) of Section 3 of the Petroleum Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the Right of User in the lands specified in the schedule appended to that notification for the purpose of laying pipelines.

And whereas the competent authority has, under sub-section (1) of section 6 of the said Act, submitted report to the Government;

And whereas, the Central Government has, after considering the said report, decided to acquire the right of user in the lands specified in the schedule appended to this notification.

Now, whereas, in exercise of the power conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification is hereby acquired for laying the pipelines and in exercise of the powers conferred by sub-section (4) of that section, the Central Government directs that the right of user in the said lands shall instead of vesting in the Central Government vest on this date of the publication of this declaration in the Oil and Natural Gas Commission free from all encumbrances.

SCHEDULE

For laying pipeline from Well No. 7C(K.A.) to C.G.S. V.

State	Gujarat	Taluka	Kalol	D'st.	Mehsana.
Village	S. No.	Hectare	Acre	P. Acre.	
Ola	135	0	10	42	
	167	0	5	56	
	166	0	4	55	
	V. P. Cart Track	0	0	50	
	160/1	0	1	00	
	158/1	0	6	17	
	152/P	0	12	14	
	153/P	0	7	28	
	V. P. Cart Track	0	0	50	
	434	0	13	25	
	433/2	0	2	75	
	435	0	4	45	
	V. P. Cart Track	0	1	31	
	528/1/B	0	10	01	
	528/1/A	0	2	00	
	527/2	0	1	00	
	527/3	0	4	55	
	526/2	0	6	77	
	524/1	0	5	66	
Isand	564	0	12	34	
	559	0	1	91	
	558	0	6	17	
	554/3	0	6	67	
	554/1	0	5	46	
	554/4	0	2	82	
	554/2	0	4	25	
	551	0	9	11	
	552	0	2	82	
	573/P	0	3	44	
	573/P	0	3	64	
	573/P	0	1	61	
	573/P	0	1	61	
	572	0	9	11	
	511/9	0	5	46	
	571/5	0	4	05	
	571/4	0	1	00	
	641	0	11	53	
	642/2	0	6	97	
	642/1	0	1	31	
	643	0	2	32	
	668	0	13	95	
	567/2	0	4	75	
	671	0	6	27	
	676	0	13	65	
	681	0	0	65	
	682	0	4	00	

[No. 20/3/67-IOC/Lab./ (1).]

S.O. 1927.—Whereas by a notification of the Government of India in the Ministry of Petroleum and Chemical S.O. No. 1075 dated 11th March, 1967, under sub-section (1) of Section 3 of the Petroleum Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the Right of User in the lands specified in the schedule appended to that notification for the purpose of laying pipelines.

And whereas the competent authority has, under sub-section (1) of section 6 of the said Act, submitted report to the Government;

And whereas, the Central Government has, after considering the said report decided to acquire the right of user in the lands specified in the schedule appended to this notification,

Now, whereas, in exercise of the power conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification is hereby acquired for laying the pipelines and in exercise of the powers conferred by sub-section (4) of that section, the Central Government directs that the right of user in the said lands shall instead of vesting in the Central Government vest on this date of the publication of this declaration in the Oil and Natural Gas Commission free from all encumbrances.

SCHEDULE

For laying pipeline from Well No. K. 49. to GGS VI (Junction point from GGS III)

State—Gujarat		Taluka—Kadi		Dist—Mehsana		
Village	S. No.	Hectare		Acre	P. Ate.	
Ambavpura	100	.	.	0	18	0
	107	.	.	0	14	0
	107/2	.	.	0	27	6
	114	.	.	0	1	0
	103	.	.	0	1	0
	Cart Track	.	.	0	1	4
	113/4	.	.	0	16	0
	113/2 & 3	.	.	0	12	6
	113/1	.	.	0	7	0
	112	.	.	0	12	6
	111	.	.	0	9	0
	110	.	.	0	8	0
	110/5	.	.	0	2	2
	110/1	.	.	0	0	3
	Cart Track	.	.	0	1	0
	7	.	.	0	11	0
	47/1 & 2	.	.	0	10	3
	48	.	.	0	0	3
	30	.	.	0	3	4
	49/1	.	.	0	6	2
	49/2	.	.	0	8	8
	54/1	.	.	0	0	2
	52/3	.	.	0	1	7
	52/1	.	.	0	6	4
	62/2	.	.	0	7	2
	67	.	.	0	8	8
	64/3	.	.	0	5	6
	63	.	.	0	0	4
	64/2	.	.	0	3	9
	64/1	.	.	0	0	8
	86/1	.	.	0	5	9
	66/2	.	.	0	0	7
	68	.	.	0	24	6
ZULASAN	557	.	.	0	4	8
CHADASAN	416	.	.	0	68	8

S.O. 1928.—Whereas by a notification of the Government of India in the Ministry of Petroleum and Chemicals S.O. No. 1076 dated 11th March, 1967 under sub-section (1) of Section 3 of the Petroleum Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the Right of User in the lands specified in the schedule appended to that notification for the purpose of laying pipelines.

And whereas the competent authority has, under sub-section (1) of section 6 of the said Act, submitted report to the Government;

And whereas, the Central Government has, after considering the said report, decided to acquire the right of user in the lands specified in the schedule appended to this notification.

Now, whereas, in exercise of the power conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification is hereby acquired for laying the pipelines and in exercise of the powers conferred by sub-section (4) of that section, the Central Government directs that the right of user in the said lands shall instead of vesting in the Central Government vest on this date of the publication of this declaration in the Oil and Natural Gas Commission free from all encumbrances.

SCHEDULE

Laying line from well No. K. G. H. (104) to K.H. P. (58) to G.G.S. IV

State—Gujarat		Taluka—Kadi		Dist—Mehsara	
Village	S. No.	Hectare	Are.	P. Ar	
Ambavpura	78/1/A	0	19	31	
	31/9	0	2	12	
	31/6+7	0	4	15	
	31/5	0	2	02	
	31/4/P	0	3	84	
	31/4/P	0	1	00	
	72/P	0	28	83	
	72/P	0	6	07	
	74	0	3	5	
	68 V. P. Gauchar Land	0	2	92	

[No. 20/3/67-IOC/Lab.(3).]

S.O. 1929.—Whereas by a notification of the Government of India in the Ministry of Petroleum and Chemicals S.O. No. 1077 dated 11th March, 1969 under sub-section (1) of Section 3 of the Petroleum Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the Right of User in the lands specified in the schedule appended to that notification for the purpose of laying pipelines.

And whereas the competent authority has, under sub-section (1) of section 6 of the said Act, submitted report to the Government;

And whereas, the Central Government has, after considering the said report, decided to acquire the right of user in the lands specified in the schedule appended to this notification.

Now, whereas, in exercise of the power conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification is hereby acquired for laying the pipelines and in exercise of the powers conferred by sub-section (4) of that section, the Central Government directs that the right of user in the said lands shall instead of vesting in the Central Government vest on this date of the publication of this declaration in the Oil and Natural Gas Commission free from all encumbrances.

SCHEDULE

For laying pipeline from well No. 94 (K.F.S.) to G.G.S. V.

State—Gujarat

Taluka—Kulol

Dist.—Mehsana

Village	S. No.	Hectare	Arc.	P. Arc.
Isand	698/4	0	4	05
	699	0	1	40
	698/2	0	9	98
	697	0	6	17
	696	0	6	20
	695	0	4	10
	V. P. Cart Track	0	1	11
	629/Paiki	0	2	02
	629/Paiki	0	5	86
	629/Paiki	0	6	27
	631/Paiki	0	11	13
	631/Paiki	0	5	56
	685/5	0	4	05
	685/4	0	4	15
	685/3	0	2	02
	678/2	0	2	72
	678/1	0	4	95
	678/7	0	5	96
	678/8	0	1	00
	680/Paiki	0	3	64
	681	0	4	75
	682	0	4	75
	680/Paiki	0	4	05

[No. 20/3/67-IOC/Lab.(4).]

S.O. 1930.—Whereas by a notification of the Government of India in the Ministry of Petroleum and Chemicals S.O. No. 1078 dated 11th March, 1969 under sub-section (1) of Section 3 of the Petroleum Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the Right of User in the lands specified in the schedule appended to that notification for the purpose of laying pipelines.

And whereas the competent authority has, under sub-section (1) of section 6 of the said Act, submitted report to the Government;

And whereas, the Central Government has, after considering the said report, decided to acquire the right of user in the lands specified in the schedule appended to this notification,

Now, whereas, in exercise of the powers conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification is hereby acquired for laying the pipelines and in exercise of the powers conferred by sub-section (4) of that section, the Central Government directs that the right of user in the said lands shall instead of vesting in the Central Government vest on this date of the publication of this declaration in the Oil and Natural Gas Commission free from all encumbrances.

SCHEDULE

For laying line from well No. 4 (K.C.T.) to G.G.S. V.

State—Gujarat

Taluka—Kalol

Dist.—Mehsana

Village	S. No.	Hectare	Arc.	P. Arc.
Chhatral	501/2	0	4	35
	500	0	7	48
	499	0	11	02
	498	0	9	71
	490/1P	0	11	93
	490/1P	0	2	42
	462/3	0	4	35
	462/2	0	1	00
	461/1	0	1	00
	464	0	11	53
	466	0	5	16
	465	0	3	64
	471	0	7	28
	472	0	8	39
	456	0	5	36
	455	0	7	89
	454/1	0	3	24
	454/2	0	4	65

[No. 20/3/67-IOC/Lab. (5).]

S.O. 1931.—Whereas by a notification of the Government of India in the Ministry of Petroleum and Chemicals S.O. No. 1079 dated 11th March, 1969, under sub-section (1) of Section 3 of the Petroleum Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the Right of User in the lands specified in the schedule appended to that notification for the purpose of laying pipelines.

And whereas the competent authority has, under sub-section (1) of section 6 of the said Act, submitted report to the Government;

And whereas, the Central Government has, after considering the said report, decided to acquire the right of user in the lands specified in the schedule appended to this notification.

Now, whereas in exercise of the power conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification is hereby acquired for laying the pipelines and in exercise of the powers conferred by sub-section (4) of that section, the Central Government directs that the right of user in the said lands shall instead of vesting in the Central Government vest on this date of the publication of this declaration in the Oil and Natural Gas Commission free from all encumbrances.

SCHEDULE

Laying pipeline from GGS. I to GGS. V.

State—Gujarat

Taluka—Ka'ol

Dist.—Mehsana

Village	S.No.	Hectare	Arc	P.Arc
I	2	3	4	5
Atodia	45	0	7	79
	44	0	9	51
	41	0	17	59

1	2	3	4	5
Arsedia—contd	V. P. Cart Tiack	0	1	11
	83	0	11	13
	87	0	4	05
	35	0	19	92
	88/1	0	1	00
	V.P. Cart Track	0	0	60
	34	0	14	46
	32	0	2	82
	31	0	1	00
	106	0	18	71
	V.P. Cart Track	0	2	22
	130	0	4	05
	131	0	11	43
	162	0	12	14
	163/Paiki	0	8	19
	163/Paiki	0	12	34
	158	0	13	75
	157	0	1	00
	181	0	2	00
	182	0	5	06
	183	0	10	62
	179/1	0	19	62
	190	0	24	18
	189	0	8	29
	191	0	12	24
	V.P. Cart Track	0	0	80
	192	0	29	84
	202/1-2	0	20	43

[No. 20/3/67-IOC/Lab-(6).]

S.O. 1932.—Whereas by a Notification of the Government of India in the Ministry of Petroleum and Chemicals, S.O. No. 1080, dated 11th March 1969 under sub-section (1) of Section 3 of the Petroleum Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the Right of User in the lands specified in the schedule appended to that Notification for the purpose of laying pipelines.

And whereas the competent authority has, under sub-section (1) of section 6 of the said Act, submitted report to the Government;

And whereas, the Central Government has, after considering the said report, decided to acquire the right of user in the lands specified in the schedule appended to this Notification.

Now, whereas, in exercise of the power conferred by sub-section (1) of the section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this Notification is hereby acquired for laying the pipelines and in exercise of the powers conferred by sub-section (4) of that section, the Central Government directs that the right of user in the said lands shall instead of vesting in the Central Government vest on this date of the publication of this declaration in the Oil and Natural Gas Commission free from all encumbrances.

SCHEDULE

Laying pipeline from GGS I to GGS V

State—Gujarat	Taluka—Gandhi Nagar			Dist—Gandhi Nagar	
Village	S. No.		Hectare	Are	P. Are
1	2		3	4	5
Bhoyan (Rathodni)	215/Paiki	.	0	14	16
	215/Paiki	.	12	94	00
	216/Paiki	.	0	19	51
	216/Paiki	.	0	10	72
	223/2	.	0	03	04
	222/1	.	0	05	26
	222/2	.	0	10	12

1	2	3	4	5
Bhayan (Rathodni)— <i>contd.</i>	220	0	17	50
	V. P. Cart Track	0	0	80
	272/Paiki	0	13	95
	272/Paiki	0	14	46
	270	0	1	00
	271	0	10	72
	275	0	5	66
	276	0	24	58
	280	0	16	69
	299/1	0	9	41
	299/2	0	27	11
	V.P. Cart Track	0	1	41
	317	0	11	13
	316/1	0	21	85
	316/2	0	12	54
	328	0	15	06
	329	0	22	26
	334	0	7	26
	338	0	1	00
	330	0	6	20
	333	0	24	68
	341	0	10	62
	343	0	10	42
	342/1	0	1	61
	342/4	0	10	42
	342/3	0	10	12
	352/1	0	12	14
	346/1 Paiki	0	17	80
	346/1 Paiki	0	5	86
	346/1 Paiki	0	2	22
Sertha	1374	0	1	21
	1388	0	22	55
	1387	0	1	00
	1389/2	0	1	00
	1390/2/B	0	13	85
	1390/2/A	0	10	12
	1394/1/1A	0	2	62
	1394/1/B	0	1	00
	1394/3A&B	0	6	17
	1395/7	0	1	00
	1395/1	0	13	75
	1395/4/Paiki	0	1	00
	1395/4/Paiki	0	10	00
	1395/3	0	6	29
	1406	0	3	34
	1407	0	21	03
	1405/1	0	4	85
	1405/2A	0	15	28
	V. P. Cart Track	0	1	00
	1269	0	6	97
	1270	0	17	90
	1262	0	5	10
	1261	0	10	01
	1271/1	0	5	26
	1260	0	9	61
	1259	0	14	55
	1258/2	0	35	61
	1256	0	1	00
	V. P. Cart Track	0	1	60
	1237	0	2	02
	1238/1	0	4	05
	1239/1	0	2	22

S.O. 1933.—Whereas by a Notification of the Government of India in the Ministry of Petroleum and Chemicals, S.O. No. 1081, dated 11th March, 1969, under sub-section (1) of section 3 of the Petroleum Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the Right of User in the lands specified in the schedule appended to that Notification for the purpose of laying pipelines.

And whereas the competent authority has, under sub-section (1) of section 6 of the said Act, submitted report to the Government;

And whereas, the Central Government has, after considering the said report, decided to acquire the right of user in the lands specified in the schedule appended to this Notification.

Now, whereas, in exercise of the power conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this Notification is hereby acquired for laying the pipelines and in exercise of the powers conferred by sub-section (4) of that section, the Central Government directs that the right of user in the said lands shall instead of vesting in the Central Government vest on this date of the publication of this declaration in the Oil and Natural Gas Commission free from all encumbrances.

SCHEDULE

Laying pipeline from GGS I to GGS V

State—Gujarat

Taluka—Kalol

Dist—Mehsana

Village	S. No.	Hectare	Acre	P. Acre
Kalol	252/312	0	1	01
	252/311	0	16	89
	252/309	0	7	28
	252/308	0	1	00
	252/307	0	8	39
	252/306 Paiki	0	8	29
	252/306 Paiki	0	20	23
	V.P. Cart Track	0	2	02
	252/207/2	0	18	50
	252/209/1	0	15	67
	252/209/2	0	6	67
	252/215/1	0	12	44
	252/214	0	2	00
	V. P. Cart Track	0	2	00
	252/231	0	14	76
	252/230/2	0	6	67
	252/230/1	0	13	25
	195	0	16	69
	196	0	9	20
	177/1	0	8	00
	176	0	16	27
	174/2	0	14	66
	V.P. Cart Track	0	2	12
	72	0	7	68
	73	0	54	81
	57	0	1	00
	56	0	5	46
	58/2	0	12	24
	58/1	0	9	51
	59	0	15	38
	V.P. Cart Track	0	2	00
	44	0	14	36

S.O. 1934.—Whereas by a Notification of the Government of India in the Ministry of Petroleum and Chemicals, S.O. No. 1082, dated 11th March 1969, under sub-section (1) of Section 3 of the Petroleum Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the Right of User in the lands specified in the schedule appended to that Notification for the purpose of laying pipelines.

And whereas the competent authority has, under sub-section (1) of section 6 of the said Act, submitted report to the Government;

And whereas, the Central Government has, after considering the said report, decided to acquire the right of user in the lands specified in the schedule appended to this Notification.

Now, whereas, in exercise of the power conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this Notification is hereby acquired for laying the pipelines and in exercise of the powers conferred by sub-section (4) of that section, the Central Government directs that the right of user in the said lands shall instead of vesting in the Central Government vest on this date of the publication of this declaration in the Oil & Natural Gas Commission free from all encumbrances.

SCHEDULE

For laying pipeline from GGS I to GGS V

State—Gujarat Taluka—Kalol Dist—Mehsana

Village	S. No.	Hectare	Are	P. Are
I	2	3	4	5
Ola	93	0	10	82
	101/1A	0	17	19
	V.P. Cart Track	0	1	31
	91	0	23	06
	87	0	14	05
	88	0	13	85
	86/2	0	8	39
	86/1	0	12	74
	85/1	0	10	62
	85/2	0	1	00
	V. P. Cart Track	0	2	52
	128/3	0	10	62
	128/2	0	2	52
	128/1 Paiki	0	1	00
	131/3	0	2	00
	127	0	1	00
	128/1 Paiki	0	8	39
	132/2	0	9	11
	132/1	0	3	34
	131/1	0	6	47
	137	0	7	68
	133	0	1	51
	136/2	0	6	97
	136/1	0	10	62
	135	0	9	81
	141/1	0	1	00
	141/3	0	6	47
	142/1	0	5	76
	142/2	0	9	20
	144	0	2	20
	V.P. Cart Track	0	1	21
	158/3	0	8	39

I	2	3	4	5
<hr/>				
Ola—contd.	153/9	0	10	82
	153/7 Paiki	0	1	51
	153/7 Paiki	0	1	00
	153/6	0	8	29
	153/1	0	3	84
	153/5	0	3	64
	153/4	0	8	9
	V. P. Cart Track	0	1	70
	433/2	0	2	33
	434	0	21	94
	435	0	10	31
	V.P. Cart Track	0	4	5
	528/1B	0	8	99
	527/2	0	21	35
	526/1	0	1	00
	527/3	0	3	24
	526/2	0	11	13
	523/1 + 2 + 3	0	11	92

[No. 20/3/67-IOC/Lab-(9).]

S.O. 1935.—Whereas by a notification of the Government of India in the Ministry of Petroleum and Chemicals S.O. No. 1083 dated 11th March, 1969 under sub-section (1) of Section 3 of the Petroleum Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the Right of User in the lands specified in the schedule appended to that notification for the purpose of laying pipelines.

And whereas the competent authority has, under sub-section (1) of section 6 of the said Act, submitted report to the Government;

And whereas, the Central Government has, after considering the said report, decided to acquire the right of user in the lands specified in the schedule appended to this notification.

Now, whereas, in exercise of the power conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification is hereby acquired for laying the pipelines and in exercise of the powers conferred by sub-section (4) of that section, the Central Government directs that the right of user in the said lands shall instead of vesting in the Central Government vest on this date of the publication of this declaration in the Oil and Natural Gas Commission free from all encumbrances.

SCHEDULE

Laying pipeline from GGS I to GGS V

State—Gujarat		Taluka—Kalol		Dist—Mehsana	
Village	S.No.	Hectare	Are	P. arc	
<hr/>					
Isand	565	0	16	99	
	567	0	22	05	
	666	0	1	00	
	568	0	9	41	
	554/4	0	2	11	
	570/3	0	5	76	
	570/5	0	8	39	
	570/4	0	7	38	
	553	0	14	56	
	571/12	0	15	38	

I	2	3	4	5
Isand—oud.	571/11	0	10	01
	571/10	0	6	17
	571/1	0	6	17
	571/2	0	1	03
	V. P. Kans	0	0	70
	646	0	19	93
	647	0	13	04
	666/Paiki	0	11	93
	666/Paiki	0	8	39
	664/4	0	4	25
	664/2	0	12	64
	663/1	0	19	11
	662	0	1	00
	674/1	0	13	20

[No. 20/3/67-IOC/Lab-(10).]

S.O. 1936.—Whereas by a notification of the Government of India in the Ministry of Petroleum & Chemicals S.O. No. 1084 dated 11th March 1969 under sub-section (1) of Section 3 of the Petroleum Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the Right of User in the lands specified in the schedule appended to that notification for the purpose of laying pipelines.

And whereas the competent authority has, under sub-section (1) of section 6 of the said Act, submitted report to the Government;

And whereas, the Central Government has, after considering the said report, decided to acquire the right of user in the lands specified in the schedule appended to this notification.

Now, whereas, in exercise of the power conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification is hereby acquired for laying the pipelines and in exercise of the powers conferred by sub-section (4) of that section, the Central Government directs that the right of user in the said lands shall instead of vesting in the Central Government vest on this date of the publication of this declaration in the Oil & Natural Gas Commission free from all encumbrances.

SCHEDULE

Pipeline from G.G.S. I to G.G.S. V

State—Gujarat	Taluka—Kalol	Dist—Mehsana		
Village	S. No.	Hectare	Arc.	P. Arc.
Saij	779	0	9	31
	780	0	13	25
	782	0	21	95
	785	0	6	77
	784	0	6	17
	776	0	12	34
	V.P. Cart track of village Saij	0	1	00
	587	0	34	08
	585/1 & 3	0	13	24
	586/2	0	3	24
	586/1 paiki	0	5	16
	586/1 paiki	0	4	15
	586/1 paiki	0	3	44
	561/1	0	5	76
	561/4	0	11	16
	561/6	0	3	44

1	2	3	4	5
Saij—contd.	561/8	0	1	00
	561/10	0	3	04
	V.P.Gart track of Village Pancha- yat			
	Saij	0	1	00
	471/2	0	4	35
	471/1	0	20	53
	472/4	0	28	02
	472/5	0	6	97
	462	0	24	43
	463/1	0	4	25
	455	0	1	00
	456/1/11	0	11	23
	456/1/6	0	5	06
	456/1/5	0	4	65
	453/4	0	13	55
	453/5	0	8	49
	453/2	0	2	00
	453/1	0	12	75
	452	0	7	28

[No. 20/3/67-IOC/Lab.(11).]

S.O. 1937.—Whereas by a notification of the Government of India in the Ministry of Petroleum & Chemicals S.O. No. 1085 dated 11th March 1969 under sub-section (1) of Section 3 of the Petroleum Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the Right of User in the lands specified in the schedule appended to that notification for the purpose of laying pipelines.

And whereas the competent authority has, under sub-section (1) of section 6 of the said Act, submitted report to the Government;

And whereas, the Central Government has, after considering the said report, decided to acquire the right of user in the lands specified in the schedule appended to this notification.

Now, whereas, in exercise of the power conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification is hereby acquired for laying the pipelines and in exercise of the powers conferred by sub-section (4) of that section, the Central Government directs that the right of user in the said lands shall instead of vesting in the Central Government vest on this date of the publication of this declaration in the Oil & Natural Gas Commission free from all encumbrances.

SCHEDULE

For laying pipeline from K.H.O. (K.116) to GGS VI

State—Gujarat	Taluka—Kadi				Dist—Mehsana		
Village	S.No.				Hectare	Arc	P.Arc.
Chadasan	20	.	.	.	0	13	44
	18	.	.	.	0	11	83
	17	.	.	.	0	6	37
	16	.	.	.	0	4	15
	15	.	.	.	0	6	37
	14/2 + 4	.	.	.	0	9	11
	I. V.P. Tank	.	.	.	0	9	91

1	2	3	4	5
Chadasan— <i>contd.</i>	14/1+3	0	10	15
	416 V.P. Gauchar	0	28	83
Zulasan	536/1	0	5	66
	537	0	11	13

[No. 20/3/67-IOC/Lab. (12).]

S.O. 1938.—Whereas by a notification of the Government of India in the Ministry of Petroleum & Chemicals S.O. No. 1036 dated 11th March 1969 under sub-section (1) of Section 3 of the Petroleum Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the Right of User in the lands specified in the schedule appended to that notification for the purpose of laying pipelines.

And whereas the competent authority has, under sub-section (1) of section 6 of the said Act, submitted report to the Government;

And whereas, the Central Government has, after considering the said report, decided to acquire the right of user in the lands specified in the schedule appended to this notification.

Now, whereas, in exercise of the power conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification is hereby acquired for laying the pipelines and in exercise of the powers conferred by sub-section (4) of that section, the Central Government directs that the right of user in the said lands shall instead of vesting in the Central Government vest on this date of the publication of this declaration in the Oil & Natural Gas Commission free from all encumbrances.

SCHEDULE

Laying pipeline (Feeder Line) G.G.S. II to main Collector Line

State—Gujarat	Taluka—Kalol	Dist—Mehsana		
Vil age	S.No.	Hectare	Are.	P.Ar ^a .
Saij	712/A paiki	0	28	0
	730	0	18	58
	729	0	5	26
	728/1	0	0	50
	735/paiki	0	1	41
	735/paiki	0	5	11
	735/paiki	0	5	11
	736	0	5	38
	737/1	0	1	50
	737/2	0	1	25
	737/3	0	2	03
	738/paiki	0	3	20
	738/paiki	0	2	55
	738/paiki	0	3	48
	739	0	4	95
	740	0	11	13
	741/2	0	4	19
	741/3	0	4	37
	741/4	0	3	94
	V.P. Cart track	0	1	70
	812/1	0	7	70
	811	0	8	35
	812/1/5	0	10	55
	812/1/4/	0	6	07
	812/1/7	0	0	50

1	2	3	4
Self)—contd.	812/1/8	0	22 84
	809/7	0	4 53
	809/6	0	1 00
	813	0	10 96
	814	0	6 12
	815	0	1 95
	816	0	2 12
	817	0	2 12

[No. 20/3/67-IOC/Lab.(13).]

S.O. 1939.—Whereas by a notification of the Government of India in the Ministry of Petroleum & Chemicals S.O. No. 1087 dated 11th March 1969 under sub-section (1) of Section 3 of the Petroleum Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the Right of User in the lands specified in the schedule appended to that notification for the purpose of laying pipelines.

And whereas the competent authority has, under sub-section (1) of section 6 of the said Act, submitted report to the Government;

And whereas, the Central Government has, after considering the said report, decided to acquire the right of user in the lands specified in the schedule appended to this notification.

Now, whereas, in exercise of the powers conferred by-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification is hereby acquired for laying the pipelines and in exercise of the powers conferred by sub-section (4) of that section, the Central Government directs that the right of user in the said lands shall instead of vesting in the Central Government vest on this date of the publication of this declaration in the Oil & Natural Gas Commission free from all encumbrances.

SCHEDULE

Pipe line from well No. 106 (K.H.N.) to G.G.S.

State—Gujarat	District—Mehsana	Taluka—Kadi		
Village	S.No.	Hectare	Are.	P. Are.
Chadasan	75/1 paiki	0	1	18
	75/1 paiki	0	8	75
	75/1 paiki	0	0	50
	77 paiki	0	5	68
	77 paiki	0	3	04
	77 paiki	0	7	43
	78/1	0	0	50
	82/1	0	10	03
	79/paiki	0	4	6
	79/paiki	0	5	24
	80	0	4	90
	V.P. Road	0	4	37
	36/2	0	3	16
	36/1	0	3	23
	33	0	1	01
	34/paiki	0	3	49
	34/paiki	0	2	59
	35	0	7	78
	24	0	6	75
	25	0	1	00

Village	S. No.	Hectare	Are.	P. Are.
Chadasan—contd.	26/1	0	2	02
	26/2	0	7	43
	27/1	0	1	70
	V.P. Cart track	0	1	34
	16	0	3	16
	15	0	8	36
	14/1	0	10	85
	14/2	0	10	32

[No. 20/3/67-IOC/Lab.(14),]

S.O. 1940.—Whereas by a notification of the Government of India in the Ministry of Petroleum & Chemicals S.O. No. 1088 dated 11th March 1969 under sub-section (1) of Section 3 of the Petroleum Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the Right of User in the lands specified in the schedule appended to that notification for the purpose of laying pipelines.

And whereas the competent authority has, under sub-section (1) of section 6 of the said Act, submitted report to the Government;

And whereas, the Central Government has, after considering the said report, decided to acquire the right of user in the lands specified in the schedule appended to this notification.

Now, whereas, in exercise of the power conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification is hereby acquired for laying the pipelines and in exercise of the powers conferred by sub-section (4) of that section, the Central Government directs that the right of user in the said lands shall instead of vesting in the Central Government vest on this date of the publication of this declaration in the Oil & Natural Gas Commission free from all encumbrances.

SCHEDULE

Laying Feeder Lines from (Main Collector Line) C.T.F. to well No. 80 side

State—Gujarat Taluka—Kalol District—Mehsana

Village	S.No.	Hectare	Are.	P. Are.
Dhanaj	8	0	13	09
	V.P. Cart tract of village Dhanaj	0	1	21
	14	0	4	43
Salj	963	0	31	55
	959	0	17	18
	955/2	0	3	61
	955/1	0	16	12
	952	0	12	56
	712/A/paik	0	24	20
	712(V.P. Cart tract)	0	4	95
	712/A/paikl	0	16	25
	892/9	0	3	25
	892/6	0	4	77
	892/8	0	4	95
	892/7	0	5	06
	893	0	7	08
	19 (V.P. Cart tract	0	1	04
	850	0	4	17
	851	0	11	58
	852	0	9	20
	853	0	8	69
	854	0	6	97

Village	S.No.	Hectare	Are	P. Are.
Sali—contd	840	0	10	98
	839	0	33	97
	821	0	1	58
	V.P. Cart tract	0	0	80
	815	0	4	80
	816	0	11	52
	817	0	9	38
	818	0	1	58
	814	0	12	83
	798	0	9	95
Sertha	1181/1	0	5	26
	1181/2 paiki	0	23	63
	1181/2/paiki	0	6	58
	1191/paiki	0	12	44
	1191/paiki	0	1	83
	1192	0	7	22
	1193/1+2	0	9	91
	1219	0	5	06
	1218/2/A	0	1	00
	1221	0	18	00
	1222/2	0	18	23
	1223	0	1	46
	1224	0	31	43
	1234/4	0	3	37
	1237	0	6	43
	1236	0	10	34

[No. 20/3/67-IOC/Lab-(15).]

S.O. 1941.—Whereas by a notification of the Government of India in the Ministry of Petroleum & Chemicals S.O. No. 1089 dated 11th March 1969 under sub-section (1) of Section 3 of the Petroleum Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the Right of User in the lands specified in the schedule appended to that notification for the purpose of laying pipelines.

And whereas the competent authority has, under sub-section (1) of section 6 of the said Act, submitted report to the Government;

And whereas, the Central Government has, after considering the said report, decided to acquire the right of user in the lands specified in the schedule appended to this notification.

Now, whereas, in exercise of the power conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification is hereby acquired for laying the pipelines and in exercise of the powers conferred by sub-section (4) of that section, the Central Government directs that the right of user in the said lands shall instead of vesting in the Central Government vest on this date of the publication of this declaration in the Oil & Natural Gas Commission free from all encumbrances.

SCHEDULE

Laying Pipeline from G.G.S. III (Well No. 49) to G.G.S. VI

State—Gujarat

Taluka—Kalol

Dist—Mehsana

Village	S.No.	Hectare	Are.	P. Are.
Pansar	112/6	0	21	4
	112/7	0	14	0
	112/5	0	2	4

[No. 20/3/67-IOC/Lab-(16).]

S.O. 1942.—Whereas by a notification of the Government of India in the Ministry of Petroleum & Chemicals S.O. No. 1090 dated 11th March 1969 under sub-section (1) of Section 3 of the Petroleum Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the Right of User in the lands specified in the schedule appended to that notification for the purpose of laying pipelines.

And whereas the competent authority has, under sub-section (1) of section 6 of the said Act, submitted report to the Government;

And whereas, the Central Government has, after considering the said report, decided to acquire the right of user in the lands specified in the schedule appended to this notification.

Now, whereas, in exercise of the power conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification is hereby acquired for laying the pipelines and in exercise of the powers conferred by sub-section (4) of that section, the Central Government directs that the right of user in the said lands shall instead of vesting in the Central Government vest on this date of the publication of this declaration in the Oil & Natural Gas Commission free from all encumbrances.

SCHEDULE

For laying pipeline from well 45 (K.C.T.) to well 79 (K.Z.)

State—Gujarat

District—Mehsana

Taluka—Kadi

Village	S.No.	Hectare	Are.	P. Are.
Chhatral	510	0	8	49
	511	0	3	74
	512	0	6	07
	513/5	0	3	64
	513/4	0	8	09
	513/1	0	6	67
	513/2	0	1	00
	516	0	10	01
	577	0	2	02
	578	0	11	23
	579/2	0	8	50
	V.P. Road	0	1	61
	661	0	2	42

[No. 20/3/67-IOC/Lab-(17).]

S.O. 1943.—Whereas by a notification of the Government of India in the Ministry of Petroleum & Chemicals S.O. No. 1091 dated 11th March 1969 under sub-section (1) of Section 3 of the Petroleum Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the Right of User in the lands specified in the schedule appended to that notification for the purpose of laying pipelines.

And whereas the competent authority has, under sub-section (1) of section 6 of the said Act, submitted report to the Government;

And whereas, the Central Government has, after considering the said report, decided to acquire the right of user in the lands specified in the schedule appended to this notification.

Now, whereas, in exercise of the power conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification is hereby acquired for laying the pipelines and in exercise of the powers conferred by sub-section (4) of that section, the Central Government directs that the right of user in the said lands shall instead of vesting in the Central Government vest on this date of the publication of this declaration in the Oil & Natural Gas Commission free from all encumbrances.

SCHEDULE

For laying pipeline from Well No. KAO/32 to Well No. KIC/113

State—Gujarat

Taluka—Kalol

Dist.—Mehsana

Village	S.No.	Hectare	Arc.	P. Arc.
Pansar	83/2	0	7	07
	83/1	0	4	45
	84/1	0	5	56
	V.P. Pansar Road	0	0	60
	139	0	17	00

[No. 20/3/67-IOC/Lab.-(18).]

S.O. 1944.—Whereas by a notification of the Government of India in the Ministry of Petroleum & Chemicals S.O. No. 1091 dated 11th March 1969 under sub-section (1) of Section 3 of the Petroleum Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the Right of User in the lands specified in the schedule appended to that notification for the purpose of laying pipelines.

And whereas the competent authority has, under sub-section (1) of section 6 of the said Act, submitted report to the Government;

And whereas, the Central Government has, after considering the said report, decided to acquire the right of user in the lands specified in the schedule appended to this notification.

Now, whereas, in exercise of the power conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification is hereby acquired for laying the pipelines and in exercise of the powers conferred by sub-section (4) of that section, the Central Government directs that the right of user in the said lands shall instead of vesting in the Central Government vest on this date of the publication of this declaration in the Oil & Natural Gas Commission free from all encumbrances.

SCHEDULE

Laying pipeline from well No. 182 to 56 to G.G.S. I.

State—Gujarat

Taluka—Ankleswar

District—Broach

Village	S.No.	Hectare	Arc.	P. Arc.
Sarthan	66/1	0	8	09
	74/2	0	8	09
	74/3	0	8	09
	65/3	0	4	05

[No. 31/67/63-IOC/Lab.]

Sd./-Illegible,
Under Secy.

MINISTRY OF HOME AFFAIRS

New Delhi, the 14th May 1969

S.O. 1945.—In exercise of the powers conferred by sub-section (2) of section 1 of the Official Languages Act, 1963 (19 of 1963), the Central Government hereby appoints the 19th day of May, 1969, as the date on which the provisions of section 6 of the said Act shall come into force.

[No. F. 2/2/66 OL].

R. D. THAPAR, Jt. Secy.

गृह मंत्रालय

नई दिल्ली 14 मई, 1969

क्रा० आ० 1946.—राजभाषा अधिनियम, 1963 (1963 का 19) की धारा 1 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्द्वारा मई 1969 के 19 वें दिन को उस तारीख के रूप में नियत करती है जिसको उक्त अधिनियम की धारा 6 के उपबन्ध प्रवृत्त होंगे।

[सं० फा० 2/2/66-राज० भाषा]

आर० डी० थापर, संयुक्त सचिव।

New Delhi, the 16th May 1969

S.O. 1947.—In pursuance of clause (2) of paragraph 2 of the Foreigners Order, 1948, the Central Government hereby appoints Officers-in-Charge, of and above the rank of a Head Constable, of the Intelligence Bureau Check Posts on the Indo-Tibet, Indo-Nepal and Indo-Bhutan Borders in the States of Jammu and Kashmir, Himachal Pradesh, Uttar Pradesh and West Bengal and in North-East Frontier Agency, to be the Civil Authority for the purposes of the said Order for the areas within their respective jurisdiction.

[No. 6/98/97-(i)-F. I.]

S.O. 1948.—In pursuance of sub-rule (1) of rule 3 of the Registration of Foreigners Rules, 1939, the Central Government hereby appoints Officers-in-Charge, of and above the rank of a Head Constable, of the Intelligence Bureau Check Posts on the Indo-Tibet, Indo-Nepal and Indo-Bhutan Borders in the States of Jammu and Kashmir, Himachal Pradesh, Uttar Pradesh and West Bengal and in North-East Frontier Agency, to be the Registration Officers for the purposes of the said rules for the areas within their respective jurisdiction.

[No. 6/98/67-(ii)-F. I.]

J. C. AGARWAL, Joint Secy.

MINISTRY OF FINANCE

(Department of Revenue & Insurance)

INCOME-TAX

New Delhi, the 12th May 1969

S.O. 1949.—In exercise of the powers conferred by clause (b) of sub-section (2) of Section 80G of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the undermentioned temple to be a place of public worship.

of renown throughout the State of Mysore and also the neighbouring States
purpose of the said section.

TEMPLE OF SHRI MANGESH AT PRIOL, GOA.

[No. 40/F. No. 16/18/69-II(AI).]

L. N. GUPTA, Under Secy.

(Department of Economic Affairs)

New Delhi, the 16th May 1969

S.O. 1950.- Statement of the Affairs of the Reserve Bank of India, as on the 9th May, 1969.

BANKING DEPARTMENT

LIABILITIES	Rs.	ASSETS	Rs.
Capital Paid Up	5,00,00,000	Notes	24,51,57,000
		Rupee Coin	3,86,000
Reserve Fund	150,00,00,000	Small Coin	8,46,000
		Bills Purchased and Discounted :—	
National Agricultural Credit (Long Term Operations) Fund, .	143,00,00,000	(a) Internal . . . . .	..
		(b) External . . . . .	..
		(c) Government Treasury Bills	155,02,09,000
National Agricultural Credit (Stabilisation) Fund	33,00,00,000	Balances Held Abroad*	150,76,06,000
		Investments**	119,63,74,000
National Industrial Credit (Long Term Operations) Fund	55,00,00,000	Loans and Advances to :—	
		(i) Central Government . . . . .	..
		(ii) State Governments@	103,33,20,000
Deposits :—		Loans and Advances to :—	
(a) Government—		(i) Scheduled Commercial Banks†	147,84,53,000
(i) Central Government	51,31,16,000	(ii) State Co-operative Banks††	197,97,81,000
		(iii) Others	2,72,69,000

		Loans, Advances and Investments from National Agricultural Credit (Long Term Operations) Fund:—	
(i) State Governments	9,17,87,000	(a) Loans and Advances to —	
(b) Banks—		(i) State Governments	31,48,39,000
(i) Scheduled Commercial Banks	151,90,99,000	(ii) State Co-operative Banks	12,41,51,000
(ii) Scheduled State Co-operative Banks	8,95,61,000	(iii) Central Land Mortgage Banks . . . . .	..
(iii) Non-Scheduled State Co-operative Banks	55,02,000	(b) Investment in Central Land Mortgage Bank Debentures	8,58,95,000
(iv) Other Banks	18,65,000	Loans and Advances from National Agricultural Credit (Stabilisation) Fund	
(c) Others	247,39,92,000	Loans and Advances to State Co-operative Banks	4,61,08,000
Bills Payable	29,96,34,000	Loans, Advances and Investments from National Industrial Credit (Long Term Operations) Fund:—	
Other Liabilities	123,58,50,000	(a) Loans and Advances to the Development Bank	6,26,71,000
	Rupees . 1009,04,06,000	(b) Investment in bonds/debentures issued by the Development Bank . . . . .	..
		Other Assets	43, 73,41,000
			Rupees . 1009,04,06,000

*Includes Cash, Fixed Deposits and Short-term Securities.

**Excluding Investments from the National Agricultural Credit (Long Term Operations) Fund and the National Industrial Credit (Long Term Operations) Fund.

@Excluding Loans and Advances from the National Agricultural Credit (Long Term Operations) Fund, but including temporary overdrafts to State Governments.

†Includes Rs. 78,60,00,000 advanced to scheduled commercial banks against usance bills under Section 17(4)(c) of the Reserve Bank of India Act.

††Excluding Loans and Advances from the National Agricultural Credit (Long Term Operations) Fund and the National Agricultural Credit (Stabilisation) Fund.

Dated the 14th day of May, 1969.

An Account pursuant to the Reserve Bank of India Act, 1934, for the week ended the 9th day of May, 1969.

ISSUE DEPARTMENT

LIABILITIES	Rs.	Rs.	ASSETS	Rs.	Rs.
Notes held in the Banking Department	24,51,57,000		Gold Coin and Bullion:—		
Notes in circulation	3666,49,57,000		(a) Held in India	182,53,11,000	
			(b) Held outside India . . . . .	..
TOTAL Notes issued		3691,01,14,000	Foreign Securities	216,42,00,000	
			TOTAL		398,95,11,000
			Rupee Coin		64,90,61,000
			Government of India Rupee Securities		3227,15,42,000
			Internal Bills of Exchange and other Commercial paper . . . . .		..
TOTAL LIABILITIES		3691,01,14,000	TOTAL ASSETS		3691,01,14,000

B. N. ADARKAR,
Dy. Governor.

Dated the 14th day of May, 1969.

[No. F. 3(3)-BC/69.]

K. YESURATNAM, Under Secy.

OFFICE OF THE COLLECTOR OF CENTRAL EXCISE

CENTRAL EXCISE

Bangalore, the 10th January 1969

S.O. 1951.—In exercise of the powers conferred on me under the second proviso to Rule 15 and 16 of the Central Excise Rules, 1944 and in supersession of this Collectorate Notification No. 3/66 dated 6th October 1966 as amended from time to time, I hereby notify the areas shown in the appended schedule as sparse growing areas for the purpose of Rules 15 and 16 of the Central Excise Rules, 1944. In these areas persons cultivating Indian Air Cured tobacco on land measuring not more than 8 ares (in case produce cured in whole leaf form) and 6 ares (if cured otherwise) shall be exempt from the provisions of Rule 15, and persons curing upto 50 kg. in whole leaf form or upto 25 kg. in other forms shall be exempt from the provisions of Rule 16 of Central Excise Rules 1944.

Schedule showing the Revenue Jurisdiction of the Areas exempted from the provisions of Rules 15 and 16 of Central Excise Rules, 1944.

District	Area delimited	Exceptions	Officer to whom declaration are to be rendered in case the prescribed limits are exceeded
1	2	3	4
MYSORE DIVISION			
<i>I.D.O. Mysore</i>			
M.O.R. Bettadapura (Mysore Dt.)	Honnur Kaval, Handigudda, Basavani, Lingapura and Doddaharivi.]	..	Sector Officer, Bettadapura.
Mandya Range (Mandya Dt.)	Taluks of Mandya, Malavalli, Srirangapatta, Nagamangala Maddur, K. R. Pet and Pandavapura.	.	Range Officer, Mandya.
M.O.R. Nanjangud (Mysore Dt.)	Chamrajnagar Taluk	Chamrajnagar Shivapura Ramasamudra, Siddavanapra colony of Aragulipura Badagalapura, Kamaravalli and Venkatarayana Chatrada Hosur	} Range Officer, Nanjangud
	Taluks of Yalander T. Narasipur Gundlupet	T. Narasipur Hobli Begur, Kamarahali of Begur Hobli and Settahalli, Kebhepura, Ankahalli, Bachahalli, Lokkere Berambadi of Hingala Hobli	

1	2	3	4
Kollegal (Mysore Dt.)	Changadi Ponnachi, Muniyam P. G. Palyam, Ballur, Hossalli, Settihalli, Arabegere, Kura- hatti, Hossur, Bhadranahalli and Martalli.	..	Range Officer, Kollegal.
<i>Hassan Circle</i>			
Marcara Range (Coorg Dt.)	Marcara Taluk	..	Range Officer, Marcara.
Virajpet Range (Coorg Dt.)	Virajpet Taluk	..	Range Officer, Virajpet.
Fraserpet Range	Somwarpet Taluk	..	Range Officer, Fraserpet.
Sakalaspur Range (Hassan Dt.)	Sakalaspur Taluk Belur Taluk.	Soorapur and Appchalli	Range Officer, Sakalaspur.
Hassan Range (Hassan Dt.)	Shantigram, Hassan and Saligram Hoblis of Hassan Taluk, Kanakatte and Banavara hoblis of Arsikere Taluk.	Alur Taluk (Old Alur) Hunsulli.	Range Officer, Hassan.
Konanur Sector (Hassan Dt.)	Bidrur, Siddapura Kadnarhalli Konanur, Mavanur, Bangara- dalli Madapura, Bettagallalay, Hand- rangi and Torgullay, Swatay Kadnur and Akalvadi Villages of Konanur Hobli.	..	Sector Officer, Konanur.
	Mathigodu, Mallina- thapura and Kerala- pura Villages of Ramnathpura Hobli.	Basavanahalli	
	Hagadalli of Malli- potna Hobli Hulkal, Sangankuppe, Bar- gur, Matadaborn- manahalli, Ven- kateshpura of Betta- godnahally of Magge hobli.	..	
	Goranhalli, Bithugo- danhalli, Malita- mana hally, Byochin- halli and Mudan- halli of Kasaba Hobli.	Maradhalli	
Holenarasipur (Hassan Dt.)	Bagar and Naggen- halli hobli and Halmathigatta Vill- age of Shravanabela- gola hobli of Chan- narayapatna Taluk.	..	Sector Officer, Holenarasipura.

1	2	3	4
Chickmagalur	Jagra, Khandya, Aldur, Avathi and Chickmagalur Hobli of Chickmagalur Taluk.	Kurubarabudjhalu Village of Chickmagalur Hobli.	} Range Officer, Chickmagalur.
	Taluks of Koppa, Sringeri, Narasimharajapura.	..	Range Officer, Koppa.
	Kalasa and Belur hoblis of Mudigere Taluk.	..	Range Officer, Kalasa.
	Mudigere Taluk except Kalasa and Belur Hoblis		Range Officer, Mudigere.
	Tarikere Taluk Kadur Taluk.	Chowla, Hiriya, Thimmapura, Yaratikatte, S. Bidare, Lingadahalli, Hanumanahalli, Lamanihalli, Neelanahalli, Nidagatta, Siddapura, Nagralu, Gundusagara and Kobli villages.	} Range Officer, Kadur.

Mangalore Circle

M.O.R. Mangalore (South Kanara Dt.)	Taluks of Mangalore, Puttur, Bantwal, Sullia, Belthangadi	Belthangadi hobli Savanallur	Range Officer, Mangalore M.O.R.
Karkal Range	Karkal Taluk		Range Officer, Karkal.
Udipi Range	Udipi Taluk Kundapur Taluk.	Kirimanjeswari village.	Range Officer, Udipi.

BANGALORE I DIVISION

Bangalore District	1. Magadi Taluk 2. Ramnagaram Taluk 3. Kanakapura Taluk	.. .. Sangam village of Yamanayakana-halli Hobli of Kanakapur Taluk.	} Range Officer, Channapatna.
	4. Channapatna Taluk 5. Doddaballapur Taluk 6. Nelamangala Taluk	.. .. ..	} Range Officer, Doddaballapur.
Kolar District	1. Kolar Taluk 2. Malur Taluk 3. Bangarpet Taluk 4. Mulbagal Taluk	.. .. .. ..	} Range Officer, Kolar.

	1	2	3	4
		5. Chintamani Taluk	..	} Range Officer, Chintamani.
		6. Srinivasapura Taluk	..	
		7. Siddalaghatta Taluk	..	
		8. Chikkaballapur Taluk	..	
		9. Bagepalli Taluk	Chellur Hobli Bagepalli Taluka	
Kolar Dt.		10. Gudibanda Taluk	Vatadoshasalli Hobli	} Range Officer, Gouribidanur. Range Officer, Gouribidanur.
		Gowribidanur Taluk	Gouribidanur Hobli	
			Manchanahalli Hobli	
			Nagarange Hobli	
	Do.		1. Haleupparahalli	} Range Officer, Hosur.
			2. Bommasetti-halli.	
			3. Ramapura	
			4. Rangenahalli	
			5. Kuradi	
			6. Dwaran Kunte	
			7. Kadirahalli villages in Hosur Hobli.	
BANGALORE II DIVISION				
<i>Tumkur Circle</i>				
Tumkur Dt.		Entire Taluks of Tumkur Tiptur and Kunigal		} Superintendent, Tumkur M.O.R.
	Gubbi Taluk	<i>Villages</i>		
		1. Tippurhatti		
		2. Bidre		
		3. Konankal		
		4. Gowripura		
		5. Nimbekatte		
		6. Aresandra of Chelur Hobli.		
	Chik-anayakanahalli Taluk	<i>Villages of</i>		
		1. Somanahalli		
		2. Dasadi		
		3. Gondala		
		4. Marnapalya		
		5. Kallenahalli		
		6. Dubbegunte of Huliya Hobli		
	Turuvekere Taluk	..		
Tumkur District		Kallembella Hobli Sira Taluk		} Superintendent, Sira M.O.R.
		<i>Villages of</i>		
		1. Gundalhanasa		
		2. Neeralgudde		
		3. Shakadadu		
		4. Manganaahalli		
		5. Huildore		
		6. Kilarda halli		
		7. Bhukkapatna		
		8. Ramanahalli		
		9. Yoradahalli of Bukkapatna Hobli.		

1	2	3	4
Tumkur District	Pavagada	Villages of	Inspector of Central Excise, Pavagada.
		1. Bommathanhalli 2. Nerelkunte 3. Venkatapura 4. Badapur 5. Veeradgunde of Kasaba Hobli	
	Pavagada Taluk	Villages of	
		1. Boddi betta 2. Padaganahalli 3. Y.N. Hoskote (includes Achammanahalli or Magalapalya) 4. Siddapura 5. Ballenahalli 6. Singareddyhalli 7. Vadanakal of Y.N. Hoskote Hobli	
	Pavagada	Villages of	
		1. Mudaganahalli 2. Kythagannahalli 3. Mangalawada 4. Hosahalli 5. Cholarpalya 6. Tumkunte 7. Kodigehalli 8. Kadabalkere 9. Kalrayanahalli 10. Aresckere 11. Devarabetta 12. Gujjanadu 13. Bellibetta 14. Sailapura 15. Devalkere 16. K. T. Halli 17. Koteegudda 18. Gholarpalya (Kondapura) of Nidugal Hobli	Inspector of Central Excise, Pavagada.
	Pava-gada	Village of Nagal- madale Hobli 1. Venkatammanahalli	
Chitaldurga District	1. Entire Hosadurga Taluk 2. Nayakanahatti Firka of Challakere Taluk	Villages of 1. Mallurhalli 2. Obanayanahatti 3. Musalagunte	Superintendent, Hiriya M.O.R.
Davangere Circle			
Shimoga District	Channagiri Taluk	Basavapatna Hobli Santebennur, Somallapur.	Inspector of Central Excise, Chitradurga.

	1	2	3	4
		1. Honnali Taluk	<i>Sasuehalli Hobli</i> Balagutti, Nyamathi and Savalanga Hobli	Superintendent of Central Excise M.O.R. Bhadravati.
		2. Sorab Taluk	..	
		3. Sagar Taluk	Holehonnur Hobli	
		4. Shikaripur Taluk	..	
		5. Hosanagar Taluk	..	
		6. Thirthahalli Taluk	..	
Chitradurga District		1. Jagalur Taluk	Sokkehobli (except Setharasapalli and Siddankote or villages).	Range Officer, Chitradurga.
		2. Chitradurga Taluk	Turuvalnur Hobli (except Chik- konda halli Turvanaru, Kundur, Arelana- halli and Bangarakanaha-lli	
		3. Holalkere Taluk	B'durga & Talya Hoblis and Jampabayakana- kote of Chitra- durga hobli	
Chitradurga District		Davangere Taluk	..	Range Officer, M.O.R. Davangere.
Bangalore District		1. Devanhally Taluk		Superintendent, Tobacco M.O.R. Bangalore.
		2. Bangalore South Taluk.		
		3. Bangalore North Taluk		
		4. Anekal Taluk		
		5. Hoskote Taluk		

BELGAUM DIVISION

Belgaum		1. Khanapur Taluk	Chickmamoli Kararinkop Hirechattihol	Deputy Superintendent M.O.R. Belgaum.
		2. Ramdurg Taluk	Tondikatti	Range Officer, Gokak

BELLARY DIVISION

Bellary Circle.

Raichur District.		Raichur Taluk	1. Kalmala 2. Gunjahalli 3. Jigarakalli 4. Yeragera	Inspector of Central Excise, Raichur.
		Manvi Taluk	1. Kurdi (2) Kullar	
		Devadurg Taluk	1. Masarkal	Inspector of Central Excise Koppal.
Do.		Irkalgud Firka of Koppal Taluk	..	
		Yelbarga Firka of Yelbarga Taluk	1. Maliakasamudra 2. Bellutagi 3. Sangannahal	

1	2	3	4
Raichur District—contd.	Gangavathi Taluk Kustagi Taluk	(1) Mathur (2) Kesur (3) Kudhur (4) Belatgi (5) Dotihal (6) Madenur (7) Ban- nahatti (8) Megur (9) Siruguppi villages of Kustagi Firka (10) Tavergera village of Tavergera Firka 1. Sindhanoor Village (1) Mudgal (2) Ra- himatnal	Inspector of Central Excise, Gangavathi.
Bellary Dt.	Sindhanoor Taluk Lingsugur Taluk Kampli Firka Kamalapur Firka	.. .. .. ..
Bellary District	Mallapur Taluk Kudligi Firka Gulikotta Firka Hosalli Firka	1. Hampasagar (1) Kanamadagu (2) Kudligi (1) Humsi (1) Hudem (2) Kumti (3) Talaga- thalli (4) Chirt- gundi	Superintendent of Central Excise, Harapanahalli M.O.R.
Bellary	Bellary Taluk Sondur Taluk Siruguppa Taluk	1. Kudithini of Bellary Firka (2) Elebenchi of Gurugodu Firka (3) Koppagal of Kallur Firka (4) T. Budihal of Rupangudi Firka. 1. Sondur Firka (2) Ankannal of Chornur Firka (1) Talur (2) Tek- kalkota (3) Bage- wadi (4) Balkundi	Inspector of Central Excise, Bellary Rural.
Bijapur	<i>Bijapur Circle</i> Bijapur Taluk Bagewadi Taluk Muddebihal Taluk	.. 1. Naltwad Village	Inspector of Central Excise, Bijapur.
Do.	Singdi Taluk Indi Taluk Bagalkot Taluk Badami Taluk Biligi Taluk	(1) Golgeri (2) Almol (3) Dambal villages (1) Chadachan (2) Tamba .. (1) Chienchalkatti ..	Inspector of Central Excise, Singdi. Inspector of Central Excise, Bagalkot.
Do.	Jamkhandi Taluk Mudhol Taluk Hungund Taluk	(1) Terdal (2) Tamadaddi (3) Sasalatti Villages (1) Mudhol village (1) Hungund (2) Tumle (3) Kandgal (4) Kamblihal (5) Nandawadgi (6) Jalakamma- dinni (7) Kesara- bhavi (8) Gonal (9) Hiregonal	Inspector of Central Excise, Jamakhandi. Inspector of Central Excise, Ilkal

1	2	3	4
Dharwar	Gadag Taluk	(1) Betegeri (2) Lakundi (3) Timapur (4) Antur (5) Birlur (6) Nirgundi (7) Lingdal (8) Gadag (9) Kanginhal (10) Mulgorad (11) Harti (12) Matthigudi (13) Manvi (14) Algwadi (15) Annigeri (16) Hombal (17) Halkotti (18) Ibrahimpur.	Inspector of Central Excise, M.O.R. Gadag.
	Ron Taluk	(1) Kornutigi (2) Sudi (3) Naregal (4) Ron (5) Junthli (6) Gajendragad (7) Hole Alur (8) Mushigere (9) Kochlapur (10) Rajur (11) Kakilatti (12) Belvanaki (13) Yawagal (14) Abigeri (15) Bonakopp (16) Nidegundi (17) Holehadagali	
	Mundargi Taluk	(1) Mundargi (2) Makthampur (3) Chunchilhal (4) Damhal (5) Meundi (6) Bagewadi (7) Hirewaddatti (8) Benakankopp (9) Alur (10) Budihal (11) Belwadi (12) Yelsor (13) Sirol (14) Yarebetri	Inspector of Central Excise, Gadag.
	Nargund Taluk	(1) Nargund (2) Kalkerl (3) Basurode (4) Konur.	
	Navaigund Taluk	(1) Tirapur (2) Yemnur (3) Navalgund (4) Shelwadi (5) Nagnur (6) Shirur	
	Shirahatti Taluk	(1) Shigli (2) Honal (3) Odiyarmallapur (4) Hiremallapur (5) Footgaonbadmi (6) Amrapur	Inspector of Central Excise, Forward Sector Shirahatti (M.O.R. Gadag)

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		(7) Sogiwal (8) Hullur (9) Budihal (10) Nilogol (11) Chiksuvnur (12) Bulehosur (13) Konchgeri (14) Hebbal (15) Kognur (16) Todeli (17) Nagarmodi (18) Wadvi (19) Kokkargondi (20) Surangi (21) Ullatti (22) Amratti (23) Laxmeshwar (24) Shirahatti (25) Gulganjkopp	
		<i>Hubli Circle</i>	
Dharwar	Hirekerur Taluk	(1) Rattihalli (2) Masur (3) Battikoppa	
	Ranebennur Taluk	(1) Benakankond (2) Chalageri (3) Devagondan- kotti (4) Humsika Katti (5) Magod (6) Kamadod (7) Karur (8) Laxmipur (9) Maknur (10) Ranebennur (11) Teredahalli (12) Turumalde- varkoppa (13) Anrohi (14) Bevinhalli (15) Hediya (16) Husagur (17) Kuppelur (18) Konantali (19) Krishnapur (20) Lingadhalli (21) Malakanhalli (22) Mustur (23) Nandihalli (24) Nitpalli (25) Yalahadagi (26) Armallapur (27) Airani (28) Belur (29) Coondanpur (30) Chandapur (31) Chikurvatti (32) Hadarger (33) Hirebidri (34) Heeldhalli (35) Kunhov (36) Konantambagi (37) Medleri (38) Na-dihara- halli	Inspector of Central Excise, Ranebennur (M.O.R. Raneben- nur)

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Dharwar	Hangal Taluk Byadgi Taluk	(39) Madapur (40) Somalapur (41) Hullatti (42) Tallapur (43) Ekklapur (44) Gudihal (45) Holeanaveri (46) Tumminakatti (47) Kotyal	
		(1) Byadgi (2) Motebennur (3) Chetra (4) Kadaraman- dalagi (1) Haveri (2) A-ladakatti (3) Devageri (4) Devihosur (5) Kabbur (6) Homabardi (7) Agadi (8) Karajagi (9) Chikkamugadur (10) Chukkmara-lalli (11) Mannur (12) Hiremugadur (13) Kolur (14) Korasur (15) Handignur (16) Ichangi (17) Yalagachu (18) Agasanmatti (19) Hosaritti (20) Kordur (21) Channur (22) Akkur (23) Maradur (24) Kittur (25) Halagi (26) Marol (27) Belavigi (28) Galaganath (29) Havanur (30) Havasi (31) Shakar (32) Guttal (33) Kurugund (34) Negalur (35) Kanwalli (36) Kattenahalli	Inspector of Central Excise, Byadgi (M.O.R. Raneben- nur)
	Haveri Taluk		
	Dharwar Taluk	(1) Peeragani (2) Lakmapur (3) Yatingudd (4) Garag (5) Kelageri	
	Hubli Taluk	(1) Hubli (2) Chabbi Reve- nue Circle,	
	Kalaghatgi Taluk Kundgol Taluk	(1) Gudageri (2) Harlapur (3) Kalas (4) Sultanpur	

[illegible]

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	Aland Taluk	(1) Aland (2) Bhusnoor (3) Devanthi (4) Dhanagapur (5) Madagunaki (6) Madan-Hip- parga (7) Hiroli (8) Naron (9) Nimbali	Inspector of Central Excise, M.O.R. Gulbarga.
	Afzalpur Taluk	(1) Mashal (2) Mallabad (3) Badadal (4) Bellurgi (5) Nilur (6) Gobbur (7) Hire-revoor	
	Yadgiri Taluk	(1) Yadgiri (2) Mustoor (3) Kotagera (4) Motanahalli (5) K. Hosalli (6) Putpak (7) Mallapur (8) Chaptal (9) Gajarkot (10) Rampur (11) Shivapur (12) Devarahalli (13) Kakalwar (14) Sangawar (15) Chintagunta.	
	Shivapur Taluk	(1) Godihal (2) Devatkal (3) Hire-Hebbal (4) Chikka-Hebbal (5) Baichool (6) Kudalgi (7) Khanapur (8) Hadanoor (9) Chikka-Mud- noor (10) Hire-Mudnoor (11) Rampur- Mudnoor (12) Godrihal	Inspector of Central Excise, M.O.R. Yadgiri.
	Shahapur Taluk	(1) Rajapur (2) Vanadurga (3) Gulasaram (4) RASTA Pur	
	Chittapur Taluk	(1) Bagewadi (2) Bommanahalli (3) Bankalga (4) Satnoor (5) Mudabole (6) Mogala (7) Rawoor (8) Taranahalli (9) Bellagumpa (10) Madbole (11) Mangalgi (12) Kotadur (13) Revai	

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		(14) Salabhalli (15) Allur (Khurd) (16) Allur (Buzruk) (17) Bhimanabhalli (18) Ramathirth (19) Halakatta	
Gulbarga	Sedam Taluk	(1) Sedam (2) Hanganhalli (3) Neelhalli (4) Kokanabhalli (5) Malkhed (6) Bijanabhalli (7) Totanabhalli (8) Munahabad (9) Beeranabhalli (10) Aribomanabhalli (11) Taranabhalli (12) Kukunda (13) Yadga (14) Yadhalli (15) Adaki (16) Iranapalli (17) Lingampalli (18) Gundepalli (19) Gopanapalli (20) Chitkampalli (21) Bidarched (22) Ranjole (23) Betagerc (Khur 1) (24) Betagerc (Buzruk) (25) Nagasampalli (26) Uda 31 (27) Allabhalli (28) Kalakamba (29) Hulagole (30) Handaraki (31) Kolakunda (32) Bhutapur (33) Sindanamadu	Inspector of Central Excise, Sedam (Yadgiri M.O.T.).
	Chincholi Taluk	(1) Sulepeth (2) Kasochkhed (3) Nidagunda (4) Chatras J (5) Keshwar (6) Chimmanchod (7) Karakimukli (8) Yalamamadi (9) Channur (10) Narnal (11) Garampalli (12) Gadalingad- halli	
Bidar	Aurad Taluk Bhalki Taluka Bidar Taluka	.. (1) Ilukrana(B). (2) Ranjol (3) Bagdal (4) Bomvalgi (5) Nidwanchi	Inspector of Central Excise, Bidar (Bidar M.O.R.).

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	Humnabad Taluka	(1) Hudgi	} Inspector of Central Excise, Humnabad (Bidar M.O.R.).
		(2) Ujalam	
	Basawakalyan Taluka	(1) Basawakalyan	

[No. 1/69]

M. C. DAS, Collector.

MINISTRY OF FOREIGN TRADE AND SUPPLY
(Office of the Chief Controller of Imports and Exports)

ORDERS.

New Delhi, the 14th May 1969

S.O. 1952.—M/s. Aruna, Aruna Street, Muttampalam, Kottayam, Kerala State were granted an import licence No. P/A/1305173/C/XX/29/H/27.28 dated 17th December, 1968, for Rs. 4887/- (Rupees Four thousand eight hundred and eighty seven only). They have applied for the issue of a duplicate Customs Purposes copy of the said licence on the ground that the original Customs Purposes copy has been lost. It is further stated that the original Customs Purposes copy was registered with the Customs authorities at Cochin and was unutilised fully/partly. It was utilised for Rs. ———— and the balance available on it was Rs. ————

2. In support of this contention the applicant has filed an affidavit along with a certificate from Notary Public Kottayam (Kerala). I am accordingly satisfied that the original Customs Purposes copy of the said licence has been lost. Therefore, in exercise of the powers conferred under Sub-clause 9(cc) of the Imports (Control) Order 1955 dated 7th December, 1955 as amended, the said original Customs purposes copy of licence No. P/A/1305173/C/XX/29/H/27.28 dated 17th December, 1968 issued to M/s. Aruna, Kottayam is hereby cancelled.

3. A duplicate Customs Purposes copy of the said licence is being issued separately to the licensee.

[No. 44-V/A.87/68.69/NPCIB.]

S.O. 1953.—Mr. C. R. Sethu Madhava Rao was granted Custom Clearance permit No. P/J/2365714/MN/30/H/27.28 dated 12th March, 1969 for Rs. 26,000/- for import of a ford Zodiac car has applied for a duplicate copy of the Custom Clearance Permit as the original Customs Clearance Permit has been lost. It is further stated that the original Custom Clearance Permit was not registered with any Custom House and not utilised.

In support of this contention Mr. C. R. Sethu Madhava Rao has filed an affidavit that the original Customs Clearance Permit No. P/J/2365714/MN/30/H/27.28 dated 12th March, 1969 has been lost and direct that a duplicate customs clearance permit should be issued to him. The original Custom Clearance Permit may be treated as cancelled.

[No. 2(B. 588)/68.69/BLS/741.]

H. L. MANSUKHANI,

Dy. Chief Controller of Imports & Exports.

MINISTRY OF INDUSTRIAL DEVELOPMENT INTERNAL TRADE AND COMPANY AFFAIRS

(Department of Industrial Development)

New Delhi, the 14th May 1969

S.O. 1954/15/IDRA/69.—Whereas the industrial undertaking known as Messrs. K. C. P. Limited, Vuyyuri, district Krishna (Andhra Pradesh) is likely to close down on the 10th May, 1969 thereby leaving a substantial quantity of sugarcane uncrushed;

And whereas the Central Government is of opinion that the said undertaking is not likely to continue to function thereafter, thereby resulting in a substantial fall in the volume of production of sugar manufactured in the said industrial undertaking, for which, having regard to the economic conditions prevailing in the country, there is no justification;

And whereas the Central Government is of opinion that the said industrial undertaking is being managed in a manner highly detrimental to the scheduled industry concerned and to public interest;

Now, therefore, in exercise of the powers conferred by section 15 of the Industries (Development & Regulation) Act, 1951 (65 of 1951), the Central Government hereby appoints Shri Gyan Chandra, Additional Chief Director, Department of Food, Directorate of Sugar and Vanaspathi, New Delhi, for the purpose of making a full and complete investigation into the circumstances of the case.

[No. 9(3)Lic. Pol./69.]

ORDERS

New Delhi, the 12th May 1969

S.O. 1955/15/IDRA/69.—Whereas the Central Government is of the opinion that there has been, or is likely to be substantial fall in the volume of production in respect of cotton textiles manufactured in the industrial undertaking known as the Navjivan Mills Ltd., Kalol, North Gujarat; for which, having regard to the economic conditions prevailing, there is no justification.

Now, therefore, in exercise of the powers conferred by Section 15 of the Industries (Development and Regulation) Act, 1951 (65 of 1951) the Central Government hereby appoints, for the purpose of making full and complete investigation into the circumstances of the case, a body of persons consisting of:

Chairman

- (1) Shri G. N. Vaidya. Members

Members

- (2) Shri M. G. Mirchandani [Director (Technical)—National Textile Corporation.]
(3) Shri J. P. Singh, [Director (Finance) National Textile Corporation.]
(4) A representative of the Gujarat Government.
(5) A representative of the Company Law Board.

Member Secretary

- (6) Shri O. S. Krishnamurthy, (Dy. Director of the Textile Commissioner's Office).

[No. 9(2)Lic. Pol./69.]

S.O. 1956/15/IDRA/69.—Whereas the Central Government is of the opinion that there has been, or is likely to be substantial fall in the volume of production in respect of cotton textiles manufactured in the industrial undertaking known as the Rajnagar Spinning and Weaving Mills Ltd., No. 1 and 2, Ahmedabad, (Gujarat), for which having regard to the economic conditions prevailing, there is no justification.

Now, therefore, in exercise of the powers conferred by section 15 of the Industries (Development and Regulation) Act, 1951 (65 of 1951), the Central Government hereby appoints, for the purpose of making full and complete investigation into the circumstances of the case, a body of persons consisting of:

Chairman

- (1) Shri Jethalal C. Thakker (General Manager, Calico Mills Ltd., Ahmedabad).

Members

- (2) Shri M. G. Mirchandani, (Director-Technical National Textile Corporation).
- (3) A representative of the Government of Gujarat.
- (4) Shri J. P. Singh, (Director-Finance, National Textile Corporation).
- (5) A representative of the Ministry of I.D.I.T. and C.A (Company Law Board).

Member Secretary

- (6) Shri A.J.R. Gonsalves (Dy. Director of Textile Commissioner's Office).

[No 9(1) Lic. Pol./69.]

R. C. SETHI, Under Secy.

MINISTRY OF FOOD, AGRICULTURE, COMMUNITY DEV. & COOPERATION**(Department of Co-operation)***New Delhi, the 14th May 1969*

S.O. 1957.—In exercise of the powers conferred by Section 5-B of the Multi-Unit Cooperative Societies Act, 1942 (6 of 1942) and in supersession of the Ministry of Food, Agriculture, Community Development and Cooperation Notification No. 7-13/66-Credit dated the 11th May, 1967, the Central Government hereby directs that the following amendment shall be made in the notification of the Government of India in the former Ministry of Community Development and Cooperation (Department of Cooperation) No. S.O. 1953 dated the 28th June, 1961, published at page 1555 of Part II, Section 3(ii) of the Gazette of India of the 8th July, 1961 namely:—

In the said notification against Serial No. 2 for the entry "Shri E. V. Ram Reddi", the entry "Shri Syed Hashim Ali" shall be substituted.

[No. 7-4/68-Credit.]

S. SATYABHAMA, Dy. Secy.

(Department of Agriculture)**ORDER***New Delhi, the 13th May 1969*

S.O. 1958.—In exercise of the powers conferred by Section 5 of the Essential Commodities Act, 1955 (10 of 1955) and in supersession of the Order of the Government of India in the Ministry of Food, Agriculture, Community Development & Cooperation (Department of Agriculture) No. S.O. 3464 dated the 24th September, 1968, the Central Government hereby directs that the powers conferred on it by sub-section (1) of section 3 of the said Act to make orders to provide for the matters specified in clauses (c), (d), (f), (h), (i) and (j) of sub-section (2) thereof shall, in relation to cattle fodder of any of the varieties specified in the Schedule hereto annexed be exercisable also by the Collectors of the following districts in the State of Gujarat, namely:—

1. Bulsar;
2. Surat;
3. Broach;
4. Panchmahals;
5. Sabarkantha;
6. Kutch;
7. Banaskantha;
8. Mehsana;
9. Amreli;
10. Baroda;
11. Ahmedabad;

12. Surandranagar;
13. Rajkot;
14. Bhavnagar;
15. Jamnagar;

subject to the conditions that—

- (i) the powers delegated under clause (d) shall not be exercised so as to prejudicially affect inter-State transport or distribution in pursuance of any order of the Central Government;
 - (ii) all orders under clause (f) shall require the prior concurrence of the Central Government;
 - (iii) no order shall be issued in pursuance of the powers hereby delegated if it is inconsistent with any order issued by the Central Government under the said Act.
2. This order shall remain in force upto the 31st day of August, 1969.

THE SCHEDULE

Varieties of Cattle fodder
 Hay
 Bhusa
 Karab or Karabi or Kadbi
 Grass
 Chara

[No. 24-4/68-LDIII.]

S. J. MAJUMDAR, Addl. Secy.

MINISTRY OF HEALTH, FAMILY PLANNING, W. H. AND U. D.

(Department of Health)

New Delhi, the 15th May 1969

S.O. 1959.—Whereas in pursuance of the provisions of clause (d) of section 3 of the Dentists Act, 1948 (16 of 1948), Dr. Joginder Singh, B.D.S. (Pb.), L.D.S. R.C.S.(Eng), Head of the Dental Wing, Government Medical College, Patiala, has been elected by the Punjabi University, Patiala, to be a member of the Dental Council of India with effect from the 10th March, 1969;

Now, therefore, in pursuance of section 3 of the said Act, the Central Government hereby directs that Dr. Joginder Singh, who is a member of the Dental Council of India in the late Ministry of Health No. 3-2/62-M. II, dated the 17th October, 1962, and whose name appears against serial No. 6 under the heading "Elected under clause (d) of section 3" shall continue to be a member of the Dental Council of India.

- (i) for a further period of five years with effect from the 10th March, 1969, or
- (ii) until his successor shall have been duly elected whichever is longer.

[No. F.3-43/68-MPT.]

S.O. 1960.—In exercise of the powers conferred by sub-section (2) of section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consulting the Medical Council of India, hereby makes the following amendment in the First Schedule to the said Act, namely:—

In the said Schedule, after the entry relating to the Saurashtra University, the following entry shall be inserted, namely:—

"Aligarh Muslim University	Bachelor of Medicine and Bachelor of Surgery.	M.B.B.S." (Aligarh).
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[No. F.18-14/69-MPT.]

K. DEO, Under Secy.

(Department of Health)

ORDER

New Delhi, the 14th May 1969

S.O. 1961.—Whereas by the notification of the Government of India in the late Ministry of Health No. 19—52/68-MPT dated the 14th May, 1969, the Central Government has directed that the Medical qualification, ARTSEXAMEN granted by the University of Utrecht, Netherlands, shall be recognised medical qualification for the purposes of the Indian Medical Council Act, 1956 (102 of 1956);

And whereas Dr. J. Van Schijndel who possesses the said qualification is for the time being attached to the Katra Hospital, Mandla, Madhya Pradesh, for the purposes of charitable work;

Now, therefore, in pursuance of clause (c) of the proviso to sub-section (1) of section 14 of the said Act, the Central Government hereby specifies—

(i) a period of two years from the date of publication of this order in the Official Gazette, or

(ii) the period during which Dr. J. Van Schijndel is attached to the said Katra Hospital, Mandla, Madhya Pradesh.

whichever is shorter, as the period to which the medical practice by the afore-said doctor shall be limited.

[No. F. 19-52/68-MPT.]

B. S. SINGH, Dy. Secy.

DEPARTMENT OF COMMUNICATIONS

(P. & T. Board)

New Delhi, the 14th May 1969

S.O. 1962.—In pursuance of para (a) of Section III of Rule 434 of Indian Telegraph Rules, 1951, as introduced by S.O. No. 627 dated 8th March, 1960, the Director General, Posts and Telegraphs, hereby specifies the 1st June, 1969 as the date on which the Measured Rate System will be introduced in MOGA Telephone Exchange.

[No. 5-14/69-PHB(2).]

D. R. BAHL, Asstt. Director General (PHB).

संचार विभाग

(डाकतार बोर्ड)

दिल्ली, 14 मई 1969

एस० प्रो० 1963.—स्थायी आदेश क्रमसंख्या 627 दिनांक 8 मार्च, 1960 द्वारा लागू किये गए 1951 के भारतीय तार नियमों के नियम 434 के खण्ड III के पैरा (क) के अनुसार डाक-तार महानिदेशक ने मोगा टेलीफोन केन्द्र में 1-6-69 से प्रभावी लागू करने का निश्चय किया है।

[सं० 5/14/69-पी० एच० बी०]

डी० आर० बहल,

सहायक महानिदेशक (पी० एच० बी०)।

MINISTRY OF IRRIGATION & POWER*New Delhi, the 14th May 1969*

S.O. 1964.—In exercise of the powers conferred by section 3 of the Electricity (Supply) Act, 1948 (54 of 1948) and in partial modification of the notification No. EL-II-28(15)/67, dated the 31st October, 1967, the Central Government hereby appoints Shri S. Rammohan, Director (FE&P) in this Ministry as a member of the Central Electricity Authority *vice* Shri A. F. Couto.

[No. EL-II-28(15)/67.]

K. P. MATHRANI, Secy.

सिंचाई व बिजली मंत्रालय

नई दिल्ली, 14 मई, 1969

एस० ओ० 1965—बिजली (पूर्ति) अधिनियम, 1948 (1948 का 54) की धारा 3 द्वारा उद्घाटन शक्तियों का प्रयोग करते हुए और अधिसूचना सं० ई० एल० दो—28(15) 67, दिनांक 31 अक्टूबर, 1967 का अंगतः संशोधन करते हुए केन्द्रीय सरकार इस मन्त्रालय के निदेशक (वि० मु० तथा वि०), श्री राम मोहन को श्री ए० एफ० कुटो के स्थान पर केन्द्रीय बिजली प्राधिकरण में एक सदस्य के रूप में नियुक्त करनी है।

[सं० वि० दो—28(15) 67.]

के० पी० मथुरानी, सचिव।

New Delhi, the 14th May 1969

S.O. 1966.—In exercise of the powers conferred by rule 4A read with rule 5 of the Indian Electricity Rules, 1956, and in supersession of this Ministry's Notification No. EL. II. 4(3)/67 dated the 28th April, 1967, the Central Government hereby appoints, with immediate effect and until further orders, the following officers of the Commercial Directorate of the Central Water and Power Commission (Power Wing) to be the officers to assist the Central Electrical Inspector for various Union territories and Central Government electric installations appointed under section 36 of the Indian Electricity Act, 1910, (9 of 1910), namely:—

1. Shri B. R. Dhawan, Deputy Director.
2. Shri D. L. Gulati, Assistant Director.
3. Shri I. K. Ahluwalia, Assistant Director.
4. Shri A. M. Sethi, Assistant Director.
5. Shri O. P. Harmilapi, Assistant Director.
6. Shri B. M. Reddy, Assistant Director.
7. Shri Saranjit Singh, Assistant Director.
8. Shri S. Shanmugam, E.A.D.

[No. EL. II/4(7)/69.]

M. RAMANATHAN, Dy. Dir. (Power).

MINISTRY OF EDUCATION AND YOUTH SERVICES**ORDER***New Delhi, the 15th May 1969*

S.O. 1967.—In exercise of the powers conferred by Section 25 of the Jawaharlal Nehru University Act, 1966 (53 of 1966), the Central Government hereby

authorises Shri G. Parthasarathi, First Vice-Chancellor, Jawaharlal Nehru University, New Delhi—(i) to open an account in the State Bank of India in the name of the Jawaharlal Nehru University, and to operate on it on behalf of the University; (ii) to create and fill in posts temporarily in the University; and (iii) to take such preliminary steps as are urgently required for the purpose of bringing the provisions of the Act into effect.

This order will cease to have effect from the day following the day on which the first Executive Council of the University meets.

[No. F. 16-1/69-U.2]

G. K. CHANDIRAMANI, Addl. Secy.

MINISTRY OF INFORMATION AND BROADCASTING

ORDER

New Delhi, the 12th May 1969

S.O. 1968.—In pursuance of the directions issued under the provisions of each of the enactments specified in the First Schedule annexed hereto, the Central Government after considering the recommendations of the Film Advisory Board Bombay hereby approves the film specified in column 2 of the Second Schedule annexed hereto in Gujarati to be of the description specified against it in column 6 of the said Second Schedule.

THE FIRST SCHEDULE

(1) Sub-Section 4 of the Section 12 and Section 13 of the Cinematograph Act, 1952 (Central Act XXXVII of 1952).

(2) Sub-Section (3) of Section 5 and Section 9 of the Bombay Cinemas (Regulation) Act, 1953 (Bombay Act XVII of 1953).

(3) Sub-Section (4) of Section 5 and Section 9 of the Saurashtra Cinemas (Regulation) Act, 1953 (Bombay Act XVII of 1953).

THE SECOND SCHEDULE

Sl. No.	Title of the film	Length 35 mm	Name of the Applicant	Name of the Producer	Whether a Scientific film or a film intended for educational purposes or a film dealing with news and current events or a documentary film
1	2	3	4	5	6
1.	Mahitichitra No. 107	231.65 M	Director of Information, Government of Gujarat, Ahmedabad-15.		Film dealing with news & current events (for release in Gujarat circuit only)

[No. F. 24/1/69-FP App. 1353.]

BANU RAM AGGARWAL, Under Secy.

सूचना और प्रसारण मंत्रालय

आदेश

नई दिल्ली, 12 मई, 1969

एस० नॉ० 1969.—इसके साथ लगी प्रथम अनुसूची में निर्धारित प्रत्येक अधिनियम के उपबन्ध के अन्तर्गत जारी किये गये निदेशों के अनुसार, केन्द्रीय सरकार, फिल्म सलाहकार बोर्ड, बम्बई की सिफारिशों पर विचार करने के बाद, एतद्वारा इसके साथ लगी द्वितीय अनुसूची के कालम 2 में दी गई फिल्म का उसके गुजराती भाषा के रूपान्तरों सहित, जिसका विवरण उसके सामने उक्त द्वितीय अनुसूची के कालम 6 में दिया हुआ है, स्वीकृत करनी है :—

प्रथम अनुसूची

- (1) चलचित्र अधिनियम, 1952 (1952 का 37 वां) केन्द्रीय अधिनियम की धारा 12 की उपधारा (4) तथा धारा 16।
- (2) बम्बई सिनेमा (विनियम) अधिनियम 1953 (1953 का 17 वां) बम्बई अधिनियम की धारा 5 की उपधारा (3) तथा धारा 9।
- (3) सौराष्ट्र सिनेमा (विनियम) अधिनियम 1953 (1953 का 17 वां) सौराष्ट्र अधिनियम की धारा 5 की उपधारा (4) तथा धारा 9।

द्वितीय अनुसूची

क्रम संख्या	फिल्म का नाम	सम्बाई 35 मि०मी०	आवदक का नाम	निर्माता का नाम	यया बज्ञानिक फिल्म है या शिक्षा सम्बन्धी फिल्म है या समाचार और सामयिक घटनाओं की फिल्म है या डाकुमेंट्री फिल्म है
(1)	(2)	(3)	(4)	(5)	(6)
(1)	महितिचित्रा संख्या 107	231.65 मीटर	सूचना निदेशक, अहमदाबाद—15	गुजरात सरकार	समाचार और सामयिक घटनाओं की फिल्म (केवल गुजरात सर्किट के लिये)

[संख्या फ० 24-1-69—एफ पी परिशिष्ट 1353]

बानू राम अग्रवाल,
अवर सचिव।

MINISTRY OF LABOUR, EMPLOYMENT & REHABILITATION**(Department of Labour & Employment)***New Delhi, the 13th May 1969*

S.O. 1970.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal Calcutta in the industrial dispute between the employers in relation to the management of Messrs Hooghly Lighterage Company, Watchman Suppliers and Ship Chandlers and their workmen, which was received by the Central Government on the 1st May, 1969.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, CALCUTTA

REFERENCE No. 50 OF 1968

PARTIES:

Employers in relation to Messrs Hooghly Lighterage Company, Watchman Suppliers and Ship Chandlers,

AND

Their workmen.

PRESENT:

Shri B. N. Banerjee, Presiding Officer.

APPEARANCES:

On behalf of Employers—Shri C. L. Ganguly, Labour Adviser.

On behalf of Workmen—Shri P. Sen.

STATE. West Bengal.

INDUSTRY: Port.

AWARD

By Order No. 28/75/68-LRIII, dated October 30, 1968, the Government of India, in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment), referred the following dispute between the management of Messrs Hooghly Lighterage Company, Watchman Suppliers and Ship Chandlers and their workmen, to this tribunal, for adjudication, namely:

- "1. Whether the work done by the watchmen of M/s. Hooghly Lighterage Company on behalf of the Shipping Corporation of India Limited at Calcutta Port could be deemed to be work concerning major Port.
2. Whether, having regard to the nature of duties performed by them, the Watchmen employed by M/s. Hooghly Lighterage Company are entitled to second interim relief as recommended by the Central Wage Board for Port and Dock Workers at major Ports, and if so, from what date?"

2. I need first of all refer to the somewhat cryptic written statement filed by the parties in order to determine the scope of the reference. The workmen of Hooghly Lighterage Company, represented by Dock Mazdoor Union, filed a written statement. It is stated, in the said written statement, that Hooghly Lighterage Company was appointed as contractors for supply of watchmen to the Shipping Corporation of India Limited, in the year 1965, as per terms contained in a deed. The watchmen were entitled to the second interim relief recommended by the Central Wage Board for Port and Dock Workers. The Hooghly Lighterage Company having had refused to implement the second interim relief, an industrial dispute arose between the employer company and the workmen. In the said dispute, the employer company suddenly took up the position that the workmen not being dock workers, the Central Government had no jurisdiction to interfere and that the workmen were not entitled to the benefits of the second interim relief. The objection notwithstanding, the Government of India referred the matter to this tribunal for adjudication. Further, according to the said written statement:

"The question of jurisdiction as raised by the said Employer is motivated and without basis.

The said company is aware of the jurisdiction and as such entered into an Industrial Agreement before the said machinery and/or authority in the year 1965.

Section 2(a) (1) of the Industrial Disputes Act defines, Central Government has the authority of Major Ports. And Major Port is defined in Clause 8 of Section 3, of Indian Ports Act, 1908. The Industrial Disputes Act has the same definition for Major Ports. The Article 364 of the Constitution has also defined Major Ports. The Shipping Corporation of India Ltd., carries on its business through the Calcutta Port which remains a Major Port. The Award in the reference No. 149 of 1966 of this Court defines and/or Awarded the Watchmen as Dock Workers. As such the Watchmen under the said company are entitled to 2nd Interim Relief as Awarded by the Central Wage Board."

On the aforesaid pleadings the workers asked for the benefits of the second interim relief recommended by the Central Wage Board with effect from the date of the recommendation.

3. The management filed a written statement. In paragraph 4 of the written statement it was stated:

"4. As regards the Issue No. 1 in the Schedule to the impugned order of reference, the Company states that the Watchmen are casual employees on board the vessels owned and managed and chartered by the Shipping Corporation of India Ltd., Calcutta, to guard the ships properly one at the Gangway, two for Beat Duty on Deck (After and Forepart) and one at Entrance of the Engine Room as and when required by them. The said concerned watchmen cannot be deemed to work concerning the Major Port. The Company further states that the services of these casual watchmen are requisitioned and rendered in terms of the existing contract which does not stipulate payment of the Second Interim Relief as awarded by the Central Wage Board for Port and Dock Workers as alleged by the Opposite Party; it has been contended by decided authority on 7th March, 1968 that the award in reference No. 149 of 1966 and 152 of 1966 which are based on Wage Board Recommendations are not applicable to the watchmen who have no function on land or shore nor have anything to do with loading, unloading and/or movement of cargoes. The nature of duty performed by these casual watchmen on board the vessels establishes the fact that they have no operations at places or premises to which Calcutta Dock Workers (Regulation of Employment) Scheme relates. These awards (149 of 1966 and 152 of 1966) don't therefore, apply to these casual watchmen in dispute."

In paragraph 5 of the written statement, it was further stated:

"5. With regard to Issue No. 2 under the schedule to the impugned order of reference, the Company submits that the watchmen under the company are not entitled to Second Interim Relief as recommended by the Central Wage Board for Port and Dock Workers as Major Port as the said watchmen do not come within the meaning of Dock Workers as referred to above."

As I have already stated the pleadings are good deal cryptic and much more need be added thereto.

4. There is no dispute that Calcutta is a Major Port as defined in Section 3 of Indian Ports Act. A dock is defined in Dock Workers (Safety, Health and Welfare) Scheme, 1965 as:

"Para 2(3): 'Dock' means any dock, wharf or quay and shall include any warehouse or storing place belonging to owners, trustees or conservators, and situated in or in the vicinity of dock, wharf or quay or any railway lines for siding or uses in connection with the dock, wharf or quay but not forming part of a State Railway."

A dock worker is defined in Dock Workers (Regulation of Employment) Act, 1948, as:

"2(b) 'Dock worker' means a person employed or to be employed in or in the vicinity of any Port or Wharf in connection with loading, unloading, movement or storage of cargoes or work in connection with preparation of other vessels for receipt or discharge of cargoes or leaving the Port."

5. As far back as November 11, 1964, the Central Government constituted a Central Wage Board for Port and Dock Workers at Major Ports. The terms of reference to that Board included, *inter alia*,

- (a) to determine the categories of employees (manual, clerical, supervisory, etc.), who should be brought within the scope of the proposed wage-fixation;
- (b) to work out a wage structure based on the principles of fair wages as set forth in the report of the Committee on Fair Wages;
- (c) to bear in mind the desirability of extending the system of payment by results;

There was a direction on the Board to submit an interim report within three months. The Board submitted their recommendations for interim relief on April 9, 1965. In clause I of the conclusions, the Board indicated the categories of employees connected with Port and Dock workers to whom the recommendations should apply. Those included, broadly speaking:

- A: Employees of Major Port Authorities.
- B: Dock workers as defined under Dock Workers (Regulation of Employment) Act, 1948.
- C: The Employees engaged by the Dock Labour Board and their Administrative bodies.
- D: Employees engaged by listed employers.
- E: Employees of employers, other than Port Authorities, Dock Labour Boards, Administrative Bodies, Listed Employers and Registered Employers.

In clause II of the conclusions, the Board observed:

"All categories of employees mentioned in clause I, who are getting dearness allowance at the rates applicable to Government employees, should continue to be paid dearness allowance on the pattern of the dearness allowance of the Central Government Employees. As and when the Government revises the dearness allowance rates for its employees, these workmen should also be paid dearness allowance at such enhanced rates. This practice should be followed till the final recommendations of the Board come into effect."

In Clause III(A) they further observed:

"If any categories of employees are not being paid dearness allowance at Government rates, such categories of employees should also be paid dearness allowance from 1st October 1964 at the following rates:

(Particulars of pay range and dearness allowance omitted by me)

Provided that:

- (i) If a different scheme of dearness allowance is applicable to any employees and if under that scheme those employees have received from 31st January, 1964 an increase in dearness allowance not less than the increase in dearness allowance mentioned in the above rates, no further increase in dearness allowance would be payable to such employees. If it is otherwise, the increase in dearness allowance should be paid from 1st October, 1964 at rates equal to the difference between the rates in clause (A) above and the increased rates received by them.
- (ii) employees who are being paid consolidated wages or who are piece-rated workers, should be paid a minimum dearness allowance of Rs. 7.50 per month from 1st October 1964. However, wage differentials, if any, between higher and lower paid workers in the same channel of promotion should be taken into account for calculating the amount of dearness allowance payable under Clause (A).
- (B) Employees mentioned in provisos (i) and (ii) above should be paid increase in dearness allowance as and when the Central Government grant increases in the dearness allowance rates applicable to its employees on the same principle as mentioned in proviso (i).
- IV. Bodies the payments mentioned above, all categories of employees mentioned in clause I should be paid an interim relief of Rs. 7.50 per month with effect from 1st February, 1965."

After the publication of the above recommendations, an industrial dispute arose between the employers in relation to (1) Master Stevedores' Association and their workmen, (2) Calcutta Stevedores' Association and their employees, (3) Messrs C. Laurie & Co., Calcutta and their workmen and Messrs H. D. Mukherjee and Company Private Ltd. and their workmen over eligibility of the interim relief recommended by the Wage Board and the Central Government referred the dispute to this tribunal (Reference No. 149 of 1966), then presided over by Mr. S. K. Sen, for adjudication in the following language:

"Whether the following categories of workmen under the employment of different Stevedores or listed employers are entitled to get the interim relief and dearness allowance as recommended by the Central Wage Board for Port and Dock workers. If so, from what date?

- (i) **
- (ii) **
- (iii) **
- (iv) **
- (v) **
- (vi) **
- (vii) **
- (viii) **
- (ix) **
- (x) Watchmen
- (xi) ***

This is the reference to which reference has been made in the pleadings of both the parties. Mr. Sen made his award on September 19, 1967. In paragraph 10 of his award, he dealt with the date from when the interim recommendations of the Wage Board should be made applicable. He disposed of the question in the following language :

**** It should be pointed out that the Government resolution adopting the interim recommendation of the Central Wage Board did not contain any mandatory directive on the employers to adopt the recommendations. The Government merely requested the concerned employers to implement the same as early as possible vide copy of the Resolution WB-21(13)/65 dated 27th April, 1965. It is not necessary therefore that effect should be given to the recommendations from the date originally proposed by the Central Wage Board. It should be sufficient in the interest of justice to make the award applicable from the 1st of April 1967, i.e. the beginning of the financial year next after the date of the order of reference."

His award on the dispute referred to him is virtually contained in paragraph 11, which I set out below :

"11. My award, therefore, is that the workmen of the categories mentioned in clause (i) to (x) of the reference order are entitled to the interim relief of Rs. 11.80 per month, and the workmen mentioned in clause (xi) attached to the office of listed but not the indoor staff attached to office of registered firms of stevedores who are not also listed employers. *** The interim relief and dearness allowance under this award shall be paid to the different categories of workers with effect from 1st April, 1967. Where the workers are daily rated, the interim relief per day will be 1/26th of the amount fixed by the Central Wage Board unless the workmen of the particular category enjoys paid weekly holidays in which case the amount shall be 1/30th of the amount fixed by the Central Wage Board."

Further dispute arose over the interpretation of the above award made by Mr. Sen. Thereupon, the following reference was made to this Tribunal, under Section 36A of the Industrial Disputes Act, namely :

"Whether the award in reference No. 149 of 1966 published with the notification of the Government of India in the Ministry of Labour, Employment and Rehabilitation No. S.O. 3652 dated the 28th September, 1967 directs the employers to make payment of subsequent increases in additional dearness allowance granted from time to time

or limits it to the payment amount specified in paragraphs 10 and 11 of the said award."

By a decision, dated November 1, 1968, this tribunal observed :

"11. I, therefore, decide that the award in Reference No. 149 of 1966 directs the employers to make payments of subsequent increases in additional dearness allowance granted from time to time to such classes of employees as are mentioned in Clause II and provisos (i) and (ii) of clause III (A) of the Wage Board recommendations and to none else. I further decide that paragraphs 10 and 11 of the award of Mr. Sen should be read accordingly. I also decide that increases in dearness allowance subsequent to April 1, 1967 only shall be taken into account in this context and not increases anterior thereto because the award of Mr. Sen made the Wage Board Recommendations applicable only from April 1, 1967."

I need also bear in mind that the Central Wage Board made a second interim award, on October 7, 1966, to the following effect :

"A further (second) interim relief of Rs. 4/- per month should be paid from 1st May, 1966 to all categories of workers explained in clause I of the Board's earlier recommendation above referred to on the same terms and conditions as mentioned therein."

6. The award made by Mr. Sen concerned workmen (including watchmen) who were employed under Stevedores. Here, of course, the watchmen concerned are not employed under Stevedores. They have possibly got all the benefits under the first interim relief recommended by the Board. They aspire to get only the second interim relief recommended by the Wage Board, which has been denied to them.

7. Mr. C. L. Ganguly, Labour Adviser of Hooghly Lighterage Company, submitted, in the first place, that even if the work done by the watchmen of Messrs. Hooghly Lighterage Company on behalf of Shipping Corporation of India Ltd. be deemed to be work in a major port, which of course he disputed, even then it would have to be proved that the workers came under the category of dock workers in order to be entitled to interim relief. He contended further, regard being had to the nature of duties performed by the watchmen, which had no connection with loading or unloading or movement or storage of cargoes or work in connection with the preparation of ships for receipt or discharge of cargoes, the watchmen could not be treated as dock workers and as such were not entitled to the second interim relief as recommended by the Central Wage Board for Port and Dock Workers. He contended, in the second place, that the contract between the Hooghly Lighterage Company and the Shipping Corporation of India for supply of watchmen was at an end and it was useless now to investigate the dispute referred to this tribunal.

8. On behalf of the employers the following witnesses were examined: (1) Dilip Kr. Dey, an Assistant of the Shipping Corporation of India, (2) Naresh Chandra Ghose, Manager of the Hooghly Lighterage Company and (3) S. K. Ghose, an ex-employee of Hooghly Lighterage Company.

9. The first witness, Dilip Kr. Dey sought to prove two exhibits, Exhibits. 7 and 8. Ext. 7 is a certificate granted by the Assistant Manager of Shipping Corporation of India Ltd, which reads:

"Messrs Hooghly Lighterage of 5, Dedar Bux Lane Calcutta-16 was our watchman contractor for the year 1965 to 1968. Generally four watchmen in the following order are engaged on board our vessels:

- (i) Gangway—1
- (ii) Engine Room entrance—1
- (iii) Aft Deck—1
- (iv) Fore Deck—1.

for watch and ward duties, as and when required basis and also responsible for any loss of ship's property." Ext. 8 is possibly an annexure to this certificate

Ext. 7, describing the kinds of properties on Board the Shipping Corporation vessels in the following language:

"There are three kinds of properties on board the vessels:—

1. *Ship's property*.—This is guarded by our watchmen on board as and when required by the Ship Agent as per requisition i.e. one at Gangway, one at the Entrance of Engine-Room, one Aft-Deck and one F'head-Deck.
2. *Personal Property*.—This is guarded by the Ship Officials and crews.
3. *Ship's Cargo*.—This guarded by the Stevedor Cargo-watchmen as and when required during her loading and unloading time as well as movement."

Witness Dilip Kr. Dey said in proof of Ext. 7:

"This declaration contains particulars about the number of watchmen required on board a vessel, the places where watchmen are placed on duty and the nature of their duties. This declaration was issued because the Hooghly Lighterage Company asked for a declaration of such particulars from the Shipping Corporation of India Ltd. (marked Ext. 7). I am not aware whether the Hooghly Lighterage Company sends any watchmen on board Shipping Corporation vessels to watch over cargoes on board of such vessels."

In an answer to a question put by the Tribunal he, however, said:

"I do not know what was the occasion requiring such a documents..."

The manner in which this witness deposed in proof of Ext. 7 and 8 did not impress me. I, therefore, summoned T. T. P. Mahmood, the Assistant Manager of Shipping Corporation of India Ltd. as a Court witness and he gave evidence before this Tribunal. There were also other reasons for calling T. T. P. Mahmood as a witness. The workmen produced certain documentary evidence which went directly contrary to the oral evidence given by Dilip Kr. Dey, the first witness examined on behalf of the management. One such document was Ext. A, which was a document inviting quotation for supply of watchmen on board the vessels of Shipping Corporation of India Ltd. The opening paragraph of the said tender (Ext. A) was in the following language:

"The contractor will be required to supply Watchmen whenever required, per shift per vessel for our ships calling at Calcutta Port, irrespective of whether the ship is owned, chartered or managed by us. The allocation of duty will be under instructions from the office as under:—

Sl. No.	Category	No. of Watchmen	Indents to be received from
1.	Gangway	1 Watchman	} Deputy Marine Superintendent
2.	For Beat on deck	2 Watchmen	
3.	Engine room Entrance	1 Watchman	Deputy Engineering Superintendent.
4.	Hatches while loading/unloading operations are carried	As required	Cargo Superintendent or Deputy Marine Superintendent.

The workmen relied on the description in category No. 4 and contended that Hooghly Lighterage Company made their offer in terms of the tender and such offer was accepted, which included liability to supply watchmen in Hatches as well. The workmen also relied on Ext. 2, the contract for supply of watchmen between Shipping Corporation of India Limited and Hooghly Lighterage Company, dated April 30, 1968, the material portion of which is set out below:

"We refer to your quotation submitted to us for the above contract and subsequently amendment vide your letter dated 23rd March 1968 and the

discussion your representative had with from 1st September 1967 to 31st August 1968 at the rate given :

	Calcutta Port	Budge Budge
For supply of Watchmen per head per shift of 8 hours duration	Rs. 5	Rs. 5
Discount payable if bills are payable within 15 days	5%	5%

In this connection please note that the terms and conditions governing this contract will be effective for vessels owned, managed and chartered by us in port and arriving on or after 1st September 1967 to 31st August, 1968

The contract will operate from 1st September 1967 to 31st August 1968 unless extended by us for another three months in which event the contract will expire on November 1968.

In appointing you as our contractor we have to draw your attention to the terms and conditions of the contract as accepted by you with particular reference to clauses 2, 3, 5, 7, 8, 10, 17 and 20. Further you have to confirm in writing that the antecedents of the watchmen you will employ on our vessels have already been verified by the Deputy Commissioner of Port Police, Calcutta and that we have not to bother for any dispute with your watchmen arising out of your non-implementation of Palit's award or any award come in force during the currency of the contract. We also refer to Clause 1 of the terms and conditions governing the contract and advise you to ensure that the following are also included in your Bills:

- (a) Name of the Watchman
- (b) Shift of duty
- (c) Place of duty."

It was contended that there was nothing contained in Ext. 2 which excluded the liability to supply watchmen in hatches. Basing on these two documents, it was argued on behalf of the workmen that Dilip Kr. Dey was not a witness of truth, because Ext. A and Ext. 2 taken together would show that the condition was there for supply of watchmen in the hatches as well by Hooghly Lighterage Company. T. T. P. Mahmood, however, explained Ext. A and Ext. 2 in the following manner:

"(Shown Ext. A). This is the form which is sent out to the contractors for obtaining quotation and on the quotation received, there are contracts entered between the Shipping Corporation of India and the party whose quotation is accepted. This is however not the form in which contracts are made with the parties. I remember that such a form was sent out to Hooghly Lighterage Company. I do not remember whether any reply was received from Hooghly Lighterage Company. (Shown Ext. 2). This is the contract which was entered into with Hooghly Lighterage Company on the basis of the quotation received. The expression 'term and conditions governing this contract' referred to in the second and fourth paragraphs of Ext. 2 are referable to the terms and conditions contained in Ext. A. In other words, in the contract Ext. 2 the terms of conditions of Ext. A are bodily engrafted (Shown Ext. A) again. Although the contract contained term for supply watchmen for the hatches, it was never the practice to expect of such contractors supply watchmen to the hatches. The Shipping Corporation of India Ltd. had other appointed, namely Stevedores, to keep guard in hatches. The form, Ext. A, was cyclostyled in Bombay where the practice is not to appoint separate Stevedores to watch over hatches but to appoint a single contractor who supply all sorts of watchmen and that form was used in Calcutta without Sl. No. 4 in the first paragraph of Ext. A being struck off. The understanding was always clear that nobody expected Hooghly Lighterage Company to guard over the hatches. The officers of the Shipping Corporation of India and Master of vessels always knew that in negligence in guarding the cargo in hatches the Stevedores must be blamed, because they only provide hatch watchmen."

The next batch of documentary evidence on which the workmen relied were Ext. E(1), Ext. E and Ext. 6. Ext. E(1) is really an annexure to Ext. E. By Ext. E and Ext. 6 Hooghly Lighterage Company asked several of its workmen posted to

watchover different vessels to show cause against misconduct of theft of cargo from those vessels. It was contended on behalf of the workmen if the watchmen on board vessels of Shipping Corporation of India Ltd. were not in charge of the cargo, why should they be made responsible for theft of cargo on board the ships. Confronted with those documents, T. T. P. Mahmood said:

"[Shown Ext. E(1), Ext. E, Ext. 6 and its annexure]. The complaint was made against the watchmen of Hooghly Lighterage because there was the allegation of theft against them, as being involved in the theft. The expression 'have knowledge of the theft' in Ext. E(1) will accommodate this meaning."

In attempting to prove the fact that it was Stevedore's duty to put watchmen in the hatches, Mr. Mahmood voluntarily produced a copy of the Stevedoring Contract with K. P. Gorsia which was marked as Ext. 10. Questioned by Mr. C. L. Ganguly on behalf of the Hooghly Lighterage Company, he said:

"I have brought our Stevedoring Contract with Gorsia. Page 6 of the contract contains the provisions that Stevedores are to supply watchmen."

Further, in answer to question put by the Tribunal about why he brought the contract with K. P. Gorsia and whether was it a condition in Ext. 10 that K. P. Gorsia was to put watchmen in the hatches, he answered:

"Nobody asked me to bring this contract before this Tribunal to-day. I just chanced this contract on the file and that is how it is here to-day. At page 6 of the contract it is not written that the watchmen are to be placed in hatches only, but since the duty of a Stevedore is delimited to hatches only, their watchmen must do their duty in the hatches (Contract marked Ext. 10)."

Cross-examined by Mr. Provat Sen on behalf of the workmen, he said:

"I look after watchmen but not hatch watchmen. I did not ever correspond with Gorsia for supply of watchmen on board of any vessel. The provision of supply of watchmen as in Ext. 10 is not an error so far as Calcutta is concerned. It is the practice for Stevedores to supply hatch watchmen in Calcutta. Excepting what I said there is no document to show that in Calcutta contractor for supply of watchman do not supply hatch watchmen. Freight department deals with the watchmen supplied to the hatch as done by K. P. Gorsia."

The second witness examined on behalf of the employer company is Naresh Chandra Ghose, Manager of Hooghly Lighterage Company. In his examination in chief he said:

"We send four watchmen on board a vessel, one for engine room, one for gangway, one for aft deck and one forehead. The watchmen put 8 hours duty per shift. It is no part of the duty of the watchmen to look after cargoes either inside the hatch or on the deck."

Questioned by the Tribunal on what he said, he answered:

"The directions upon the watchmen not to guard over cargo is verbal direction and was never reduced to writing. The watchmen are placed to guard ships property only and not cargo loaded on the ship. The watchmen may apprehend thieves if they find them passing on the deck but merely for the purpose of informing the officer. This is however not part of their duty. It is specifically stated in clause a of Ext. A that the watchmen will guard 'ship's property' thereby excluding cargoes."

Also questioned as to why Hooghly Lighterage Company had issued chargesheets upon watchmen for theft on board vessels of Shipping Corporation of India Ltd., he answered:

"For theft on board the ship we issued chargesheets to watchmen for the purpose of knowing from the watchmen the reason for the theft if they aware of. These chargesheets are issued on basis of letters received from Shipping Corporation of India or on the basis of complaints made by the Port Commissioners. These complaints are started at the initiation of Masters or Chief Officers of vessels. After receipt of the explanation we do not carry on any enquiry against the persons charged."

Cross-examined on this point, he merely said.

Although the watchmen of Hoogly Lighterage are not responsible for cargo, complaints are made for theft to Hoogly Lighterage Company just for the purpose of enquiry."

The last witness examined on behalf of the employers was S. K. Ghose, an ex-watchmen of Hoogly Lighterage Company and at present an employee under Eastern Shipping Services. In examination in-chief he said:

"There are four watchmen employed in a ship—one in the engine room, one in the forehead, one on the gangway and one on the aft deck. I used to serve as one such watchman. It was part of my duty to look after and guard ship's property. It was not part of my duty watch over goods loaded on vessel."

In cross-examination, however, he gave the following answer

"If I find anybody removing goods from the hold and passing through the gangway, I may catch hold of him if he comes to my notice."

10. Three witnesses were examined on behalf of the workmen, (1) Md. Kasim, (2) Abdul Mazid and (3) Mr. Zubair, all watchmen who had served under Hoogly Lighterage Company, Md. Kasim said in his evidence in cross-examination:

"I receive my wages from Hoogly Lighterage Company. I am at times assigned work by Hoogly Lighterage Company and board vessels belonging to Shipping Corporation. On board Shipping Corporation vessels, I do my duties on gangways and on decks. I also look after the loading and unloading of cargoes on board Shipping Corporation vessels. It is not correct to say that on gangways and decks, cargoes are never placed. I have never worked in hatches but if in course of loading or unloading, bundles or casings or packings get loose or broken, the same are kept on the deck and the watchmen on duty is asked to look after them. In this way watchmen become concerned in guarding over cargoes. *** I also dispute your suggestion that Hoogly Lighterage Company never does work in respect of cargoes for Shipping Corporation of India. (Shown a bundle of forms headed Watchmen's attendance card, Gangway and Deck, Engine room and E/room/Gangway/Deck/Round) These are forms used in Shipping Corporation of India. Forms like Ext. D and D/1 are also used for Shipping Corporation of India. (The bundle of forms marked collectively x for identification). Hoogly Lighterage Company does not do work connected with the hatch for India Shipping Corporation vessels. Hoogly Lighterage Company does not do any work connected with loading and unloading of cargo on vessels of Indian Shipping Corporation."

Abdul Mazid, witness No. 2, examined by the workmen is one of the persons who had been charged under Ext. E and E(1). In his evidence this witness said:

"It is part of my duty to look after loading and unloading of vessels and to apprehend any person removing cargo in an unauthorised manner. It is part of my duty to apprehend persons carrying away goods in unauthorised fashion from the gangway through the deck. It is also my duty to apprehend persons removing anything from the Engine room or the cabins without permission or authority."

In cross-examination, however, this witness considerably modified his earlier statement and stated:

"Hoogly Lighterage Company does not send me to do duty in hatches or holds of the vessels of the Shipping Corporation of India. The watchmen sent by Hoogly Lighterage Company are assigned duties on Decks, Gangways and Engine-rooms."

The third witness, Md. Zubair said in his examination in-chief:

"The duty of watchmen on board the ships is to see that nothing including cargoes are stolen from the ships."

In cross-examination he said:

"It is the duty of the watchman to guard over things on board the ship in the engine room, on board deck on the life boats and elsewhere. I dispute your suggestion that cargoes which cannot be put inside the

hatch but are kept on the deck are guarded by the Stevedore's watchmen. We watchmen ourselves guard cargoes placed on the deck:"
 *** I also dispute your suggestion that if anybody on board the ship runs away with any part of the cargo, the watchmen cannot apprehend him."

This is the totality of the oral evidence, which I need to consider in this reference.

11. I now take up for consideration the arguments advanced by Mr. C. L. Ganguly. That Calcutta is a Major Port admits of no doubt. Mr. Ganguly, however, tried to cut it fine and contend that in order to be a "dock worker" a person must be employed in Port, that is to say under the Port Commissioners or the other Authorities for a Port and not under contractors. In this argument he is wrong. The expression's a person employed or to be employed in, or in the vicinity of, any Port' is not necessarily delimited the employees under the Port Commissioners or workers under other Port Authorities. The expression must include persons employed or to be employed in, or in the vicinity of, any Port either under the Port Commissioners or other Port Authorities or under some contractor, provided always their work was in connection with matters referred to in sub-clause (b) of Section 2 of Dock Workers (Regulation of Employment) Act, 1948. Those works are, 'loading, unloading, movement or storage of cargoes or work in connection with preparation of ships or other vessels for receipt or despatch of cargo or leaving the Port'. In the view that I take, I hold that the watchmen are persons who are employed in or in the vicinity of a major Port, namely, Calcutta. But the question remains as to whether their work should be deemed to be work concerning a major Port.

12. It is common ground that if these workmen did any work concerning a major Port, that was dock work. Therefore, the next question for my consideration is whether they performed any of the works mentioned in sub-section (b) of Section 2 of Dock Workers (Regulation of Employment) Act, 1948. Now, keeping watch over cargoes, while they are being loaded or unloaded is certainly work in connection with loading or unloading or movement or storage of cargoes. Cargoes are valuable goods. They need be watched while they are loaded in hatches or being unloaded therefrom. This watching is admittedly nothing but dock worker's work. In the instant case, however, it was sought to be established on behalf of the Hoogly Lighterage Company that the watchmen whom they supplied on board the vessels of Shipping Corporation of India Ltd. were not required to keep watch over cargoes. Distinction was sought to be made between properties which were ordinary properties of a ship, namely, her machines, her boats, her ropes and other gadgets and her cargoes namely, the goods carried by the ship for hire. It was sought to be made out that the duty to watch over goods in hatches was the sole and exclusive duty of stevedores, namely, those who loaded and unloaded goods in ships. Since Hoogly Lighterage Company was not employed as Stevedores to Shipping Corporation of India Ltd. and since there were others who are employed as such, it was no part of the duty of the watchmen supplied by the Hoogly Lighterage Company to look over the cargo in the hatches of the vessels of Shipping Corporation of India Ltd. I have already quoted the oral evidence on this point. If I analyse the oral evidence of witnesses examined on behalf of the workmen, I find that there is some substance in the contention raised on behalf of Hoogly Lighterage Company. The first witness on behalf of workmen, Md. Kasim, frankly admitted that he had never worked in hatches. He, however, said that if, in course of loading and unloading, bundles or casings or packings of cargoes got loose or broken, the same were kept on the deck and the watchmen on duty on the deck were asked to look after them. In this way, watchmen became concerned in guarding over cargoes. He also admitted:

"Hoogly Lighterage Company, does not do work connected with the hatch for Shipping Corporation of India vessels. Hoogly Lighterage Company does not do any work connected with loading and unloading of cargo on vessels of Indian Shipping Corporation."

The second witness, Abdul Mazid at first gave somewhat colourless evidence to the effect that it was his duty to look after loading and unloading of vessels and to apprehend any person removing cargo in an unauthorised manner. He however considerably modified his earlier statement in cross-examination when he admitted that Hoogly Lighterage Company never sent him to do duty in the hatches or holds of the vessels of the Shipping Corporation of India Ltd. The third witness Md. Zubair, merely stated that he disputed the suggestion that cargoes which could not be put inside the hatch but were kept on the deck were guarded by the

Stevedor's watchmen. He claimed that such cargoes were guarded by watchmen such as he was and it was also the duty of such watchmen to apprehend any person who used to runaway with the cargo.

13. If I accept the evidence adduced on behalf of the workmen, on the face value, even then the work of watching over cargo does not become the main work of watchmen supplied by Hooghly Lighterage Company to the vessels of Shipping Corporation of India Ltd. That work may be an occasional work, for example, when suddenly a broken package of cargo be placed on the deck. Now, if it had been the part of the normal duty of watchmen supplied by the Hooghly Lighterage Company to the vessels of Shipping Corporation of India Ltd. to watchover loading and unloading or to watchover movement or storage of cargoes, then I might have no hesitation in characterising them as dock-workers. They are, however, as appears from the evidence adduced on behalf of the workmen themselves, employed incidentally and once after the lapse of a time, if at all, required to look after some cargoes, which are kept outside the hatches of vessels.

14. I now turn to the evidence adduced on behalf of the employer. I am leaving out of consideration the evidence of N.C. Ghose, Manager of Hooghly Lighterage Company, who may be an interested witness and also the evidence of S. K. Ghose, a watchman employed in Eastern Shipping Service, who may also be equally interested in carrying the favours of Hooghly Lighterage Company, in the first place, there is the evidence of Dillip Kr. Dey who proved the certificate issued by the Shipping Corporation of India showing that the watchmen supplied by Hooghly Lighterage Company never use to do watch duty over cargoes in hatches. The signatory to the certificate, T.T.P. Mahmood, himself deposed. His evidence, I have already quoted *in extenso*. He may have been some indiscreet in issuing the certificates like Exts. 7 & 8 to serve the private purposes of Hooghly Lighterage Company but I am not convinced that he is not a witness of truth or that his certificate contains untruthful statement. He was cross-examined but was not shaken in the cross-examination. If I accept the evidence of T.T.P. Mahmood, then the position arises that the watchmen of Hooghly Lighterage Company had little to do with watching over cargoes. I, therefore, find a good deal of substance in the argument of Mr. Ganguly that these watchmen cannot be treated as dock workers.

15. Before I leave this point, however, I have to take notice of another circumstance. Good deal of reliance was placed on two show-cause notices, Ext. E and Ext. 6, issued against some of the watchmen of Hooghly Lighterage Company, placed on board the vessels of Shipping Corporation of India, charging them with misconduct of theft of cargo. It was contended that if a watchmen had nothing to do with watching over cargo, how could they be charged with theft of cargo. Mr. Mahmood, who was confronted with the above exhibits, tried to explain them away on the theory that the watchmen were asked to show cause because there was the allegation of theft against the watchmen themselves. So far as chargesheet Ext. 6 is concerned, this may be so, but it would be difficult to establish this explanation in respect of chargesheet Ext. E. I am, however, of the opinion that this is much too slender a piece of evidence wherefrom to establish that the watchmen were really in charge of the hatches and had to watchover the cargo. A notice to show cause may be issued to a wrong person but the mere fact that such a notice was issued would not make the wrong person liable for anything nor would it clothe him with a character which he did not possess.

16. Further, it is in evidence that the contract for supply of workmen on board the vessels of Shipping Corporation of India Ltd. by Hooghly Lighterage Company did come to an end with the expiry of December, 1968. This dispute has thus lost all its practical importance now. That is an additional circumstances in favour of the employer company.

17. In the view taken by me, my answer to the first question in the Schedule to the order of Reference is that the work concerns a major Port but the work itself is not the work of a dock worker. My answer to the second question is in the negative. I hold that the watchmen employed by Messrs Hooghly Lighterage Company are not entitled to the second interim relief recommended by the Central Wage Board for Port & Dock workers.

This is my award.

Dated, April 28, 1969.

Sd/- B. N. BANERJEE,
Presiding Officer,
[No. 28/75/68-LRIII.]

New Delhi, the 15th May 1969

S.O. 1971.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Bombay, in the industrial dispute between the employers in relation to Messrs. Dharsi Moolji, Bombay, and their workmen, which was received by the Central Government on the 1st May, 1969.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, BOMBAY.

REFERENCE No. CGIT-11 of 1967

PARTIES:

Employers in relation to Messrs. Dharsi Moolji, Bombay.

AND

their workmen.

PRESENT

Shri A. T. Zambre, Presiding Officer.

APPEARANCES:

For the employers:—Shri Y. H. Rane, Manager, with Shri K. S. Shah, Accountant.

For the workmen:—Shri I. S. Sawant, Assistant Secretary, Transport and Dock Workers' Union, Bombay.

STATE:—Maharashtra.

INDUSTRY:—Ports and Docks.

Bombay, dated 25th April, 1969.

AWARD

The Government of India in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) have in exercise of the powers conferred by sub-section (2) of section 10 of the Industrial Disputes Act, 1947, (Act 14 of 1947) by their Order No. 28(162)/66-LRIV dated 27th April, 1967 referred to this Tribunal for adjudication an industrial dispute between the employers in relation to Messrs. Dharsi Moolji, Bombay and their workmen in respect of the subject matters set forth in the following schedule:—

SCHEDULE

“Whether the employers are justified in not implementing the recommendations made by the Central Wage Board for Port and Dock Workers from time to time in respect of payment of Interim Relief and Additional Dearness Allowance to all their employees with retrospective effect. If so, what scheme of dearness allowance the employees are entitled to and from what date; and what should be the proper scales of pay for the concerned employees, the method of classification, fixation and adjustment in the revised pay scales and from what date?”

2. The employers are contractors supplying labour to the shipping companies for stevedoring purposes at Haji Bunder and Hay Bunder in the Bombay Docks. The regular stevedoring companies do not operate at these places and hence private companies and contractors are doing here the stevedoring work. The employers of this concern are the members of the Transport and Dock Workers' Union. By its statement of claim the union has alleged that the company employees about 107 workers in various categories such as (1) shore workers (Mathadi workers employed at Bunder) (2) Delivery Clerks employed in the docks and at Haji Bunder (3) Sweeping Gang workers (Pallewalas and Pallewalics) (4) Shivnars and Carpenters (5) Watchmen etc. All these employees are dock workers under the Dock Workers (Regulation of Employment) Act, 1948, and are covered by the recommendations of the Central Wage Board for Port and Dock Workers appointed by the Government of India. They have contended that the Wage Board has by its recommendations dated 9th April, 1965 granted interim relief on Rs. 7.80 and also dearness allowance. By the second recommendation granted a further interim relief of Rs. 4/- per month and though the employees of the company are dock workers the company has not implemented the recommendations and as they have refused to implement the workmen were compelled to resort to strike. During the pendency of the strike the company agreed to submit the dispute for the adjudication of the Industrial

Tribunal and accordingly a joint application was made to Government on the 10th November, 1966 and on the strength of the joint application Government have referred the present dispute to this Tribunal under section 10(2) of the Industrial Disputes Act, 1947.

3. It is alleged that as per the report of the Central Wage Board the employees of the company are covered by clauses (b), (d) and (e) of the recommendations dated 27th April, 1965 and as the employers have refused to implement the recommendations the employees have been deprived of the benefits of the interim relief and dearness allowance and the employers should be directed to implement the recommendations of the Wage Board with retrospective effect.

4. The employers have not filed any specific written statement but have adopted *in toto* the written statement filed by them in Ref. No. CGIT-6 of 1967 and have produced a copy of that written statement. They have contended that Government of India by their Order dated 27th March, 1967 had made a reference the subject matter of which is gratuity, provident fund etc., which is Ref. No. 6/1967. Again Government by their Order dated 27th April, 1967 have made the instant reference and once again by their notification dated 24th May, 1967 Government have been pleased to refer the same dispute which has been registered as Ref. No. 13 of 1967 and it was clear that Government had not applied their mind in making these references and the present reference is without jurisdiction.

5. It has been further contended that the demands which are the subject matter of the reference were covered by existing settlements which have not been terminated and the reference is contrary to law. At the time of the arguments it was contended that the workers in the employ of the company are not dock workers covered by the recommendations of the Central Wage Board. The company has been also passing through a very grave financial crisis and it has become difficult to make both ends meet. The financial position of the company has deteriorated year after year and as their condition is precarious the company will not be able to bear the burden of the demands and the reference should be dismissed.

6. The parties have not led any oral evidence but have produced copies of previous awards. In support of the nature of duties performed by the employees the union has produced an affidavit of Shri D. Y. Achrekar dated 9th April, 1969. The employers have not put in any counter affidavit and have not led any evidence.

7. It is clear from the record that Reference No. CGIT-6/1967 which pertains to the questions of provident fund, gratuity, leave facilities, leave travel concessions, rate of overtime allowance etc., is pending between the same parties and the order was made on 27th March, 1967. The present reference order is dated 27th April, 1967 and there is another reference Ref. No. CGIT-13 of 1967 regarding the implementation of the recommendations of the Wage Board and the subject matter of the second and third reference is the same. However this does not mean that while making the present reference Government have not applied their mind to the facts of the case and the dispute existing between the parties. It is significant to remember that the present reference has been made by Government in exercise of their powers conferred under section 10(2) of the Industrial Disputes Act. It is also not in dispute that the workmen had resorted to a strike and during the pendency of the same there was an agreement between the parties to refer the dispute to the Tribunal and on a joint application made to Government on 10th November the present reference was made. In the reference order it has been stated:—

“Whereas the Central Government is satisfied that the said Transport and Dock Workers' Union, Bombay represents a majority of the workmen. Now, therefore, in exercise of the powers conferred.”

8. It is also clear from the provisions of section 10(2) that when the parties to an industrial dispute apply in the prescribed manner jointly for a reference and the appropriate Government is satisfied that the persons applying represent the majority of each party it shall make a reference accordingly. The wording of this section shows that when the conditions about joint application of the majority are satisfied it is obligatory on the part of the Government to make the reference and in view of the fact that present reference has been made because of the joint application there is no substance about the contention that Government had not applied its mind and the reference was without jurisdiction.

9. The jurisdiction of the Tribunal and the maintainability of the reference were further questioned on the contention that there were subsisting settlements.

been the parties regarding the same subject matter and as they were not terminated this reference was bad. In support of this contention the company has produced a copy of the award passed in Ref. CGIT-No. 102/64 and there were also other awards between the same parties. But the union has contended that all of them have been terminated by notice and in the statement of claim in Ref. No. CGIT-6 of 1967 the union has stated:—

“Since there were substantial changes in the circumstances which warranted re-examination of the conditions of service settled by/under the above mentioned awards or settlements the Union terminated the said awards and settlements by giving 2 months statutory notice to the said firm.”

10. The employers have not denied these allegations. They have not also produced any other settlement alleged to be subsisting between the parties and the question is whether by the subsisting award in Reference No. 102/64 the present reference is barred.

11. The reference in the above-mentioned award No. 102/1964 is in respect of interim increase in the rates of dearness allowance and wages to be granted to the daily rated and monthly rated categories of dock staff and workmen employed by the company. I have gone through this award and even though the subject matter is in respect of the increase in dearness allowance it will not affect the maintainability of the present reference as at the time of the award the parties had anticipated the recommendations of the Central Wage Board and have made a provision in the award. In paragraph 6 of the award it has been stated:—

“With regard to demand No. 11 on wages it was specifically provided that the demand for increased wages was not pressed by the union in view of the appointment of a Wage Board for Dock and Port workers and the Arbitrator therefore did not think it necessary to give any award thereon.”

It has been further observed in paragraph 11 of the award.—

“It is no doubt true that the Central Wage Board for the Port and Dock workers has by its interim recommendations dated 9th April, 1965 granted interim wage increases amounting to Rs. 7.80 per month and the union claim that this company is also liable to pay the same. But this increase has been granted by the Central Wage Board over the wages that were existing on the date it made its interim recommendations i.e. 9th April, 1965 by which date the employees of stevedoring firms in Bombay had not substantial increases in their wages by way of increase in dearness allowance.”

This is further made clear by paragraph 12 of the award.

“I may make it clear that this payment is without prejudice to the rights of the union which at the hearing it stated it had of claiming the benefit of the interim wage increase recommended by the Central Wage Board for the Port and Dock workers at major ports.

12. In view of these observations it is clear that the decision given by the Tribunal while passing the award in Reference CGIT-No. 102/1964 had kept the question about the implementation of the recommendations of the Central Wage Board for Port and Dock Workers open and it shall have to be held that the maintainability of the present reference is not affected in any way.

13. At the time of the arguments learned Counsel appearing for the company contended that the employees of the company are not dock workers and will not be covered by the recommendations of the Wage Board. I do not find any substance in this contention. Firstly in their written statement they have nowhere contended that their employees were not dock workers covered by the recommendations of the Wage Board. Secondly it is clear from the observations made in previous awards that the employers are working as contractors supplying labour to the shipping companies and are doing stevedoring work at the two bunders. In the award in Reference No. CGIT-102 of 1964 it has been observed:—

“Messrs. Dharsi Moolji (hereinafter referred to as the company) Bombay are contractors for Messrs. Mackinnon Mackenzie & Co. Ltd., for unloading and stocking cargo discharged by vessels from the Persian Gulf and African Ports to which they supply labour and material such as sewing thread, nails, etc., for the purposes of their contract

work. The company has stated that in all it employs about 60 shivnars, palewellas, parewallis, carpenters and clerks who work as delivery clerks and sorters whilst the Union's claim is that it employs in all one hundred such workmen."

In their statement of claim the union has stated the categories of the employees to whom the Wage Board recommendations are applicable viz., shore workers (Mathadi workers employed at Bunder) delivery clerks employed in the docks and at Haji Bunder etc., The Dock Workers (Regulation of Employment) Act, 1948, defines a dock worker as follows:—

"Dock worker" means a person employed or to be employed in or in the vicinity of, any port on work in connection with the loading unloading movement or storage of cargoes, or work in connection with the preparation of ships or other vessels for the receipt or discharge of cargoes or leaving port."

The work of the employees is intimately connected with loading and unloading movement of cargo and clearly they are dock employees as defined by the Act.

14. The union has contended that these workers are covered by the recommendations under clauses B(5) and D and E (4 and 5) of the Wage Board. Clause B(5) states that the recommendations are applicable to similar categories of employees as in items 1 and 2 at all major ports whether they are covered by the schemes or not. A look at the schedule to the schemes at the major ports will show that such workers are covered by the schemes though in different names. Similarly it will be seen from the award of the Arbitrator Shri S. M. Dikhale dated 4th March, 1965 in the dispute referred to him by the same parties as in this reference under clause II(iv) of the Company of Discipline in Industry that the workers as per list approved by both parties were to be treated as listed workers. This means that the employers are also listed employers and the employees will be covered by Clause (E) of the recommendations of the Central Wage Board for Port and Dock workers and as all the employees are engaged in the docks they would also be covered by clause E(5) of the recommendations and if the other conditions are satisfied they will be entitled to claim the benefits recommended by the Central Wage Board.

15. The employers have further raised a contention about their financial incapacity and it has been argued that the company will not be able to bear the burden that will be imposed if the demands are granted. However, there is absolutely no evidence to show the financial condition of the company and the alleged incapacity on their part. The employers have however argued that there are references about their financial position and incapacity in the award in Reference CGIT-102/1964 and this circumstance should be considered while deciding the present issue. It is true that in the earlier dispute referred to, the employers had raised a contention about their financial incapacity. However, in the award the learned Tribunal has observed:—

"I may here state that at the hearing of the earlier dispute before this Tribunal, the company had urged as it has urged in the present dispute that it does not have the financial capacity to pay higher wages or grant better terms and conditions of service unless its principals Messrs. Mackinnon Mackenzie & Co. Ltd., grants a corresponding increase in the contracted rates. But I have found from past experience that every time this Tribunal has granted increased wages or other benefits to its workmen the company has been able to secure an increase in the rates paid to it by its said principals."

In spite of this contention awards were passed in favour of the workmen and I do not think that the employers have no capacity to implement the recommendations of the Central Wage Board for Port and Dock workers.

16. I have held that the workers in the employ of the company are dock workers covered by the recommendations of the Wage Board and they are entitled to the interim relief and the benefits granted under the recommendations dated 9th April, 1965 and 7th October, 1966.

17. The union has pressed for the benefits granted under the recommendations with retrospective effect. However, it is clear that after the demand was made a joint application dated 10th November 1966 was submitted to Government on the strength of which the Government referred the present dispute and in my opinion they will be entitled to claim the interim relief and the other benefits

dated 9th April, 1965 and 7th October, 1966 from the date of the demand be, the application dated 10th November 1966. Hence my award accordingly.

The company to pay costs of Rs. 100/- to the union.

(Sd.) A. T. ZAMBRE,

Presiding Officer,

Central Government Industrial Tribunal, Bombay.

[No. 28/162/66-LR. IV]

New Delhi, the 16th May 1969

S.O. 1972.—In exercise of the powers conferred by sub-section (3) of section 5A of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948), the Central Government hereby appoints Sarvashri P. Nagarathnam and C. M. K. Viswanathan as members of the Madras Dock Labour Board *vice* Sarvashri R. K. Varadanarayanan and P. Gopalarathnam, resigned, and makes the following amendments in the notification of the Government of India in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) No. S.O. 3475 dated the 23rd September, 1968, namely:—

In the said notification, under the heading "*Members representing the employers of dock workers and shipping companies:*", for items (1) and (2), and the entries relating thereto, the following items and entries shall be substituted namely:—

"(1) Shri P. Nagarathnam

(2) Shri C. M. K. Viswanathan".

[No. 54/5/69-Fac. II.]

New Delhi, the 19th May 1969

S.O. 1973.—In exercise of the powers conferred by sub-section (3) of section 5A of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948), the Central Government hereby makes the following amendments in the notification of the Government of India in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) No. S.O. 1322, dated the 7th April, 1967, namely:—

In the said notification, under the heading "*Members representing the employers of dock workers and shipping companies:*",—

(i) in items (1), column 1, for the words "Shri Ranjit Mookerjee", the words "Shri Ranjit Kumar Mookerjee" shall be substituted;

(ii) against items (1), (2) and (3) in column 2, for the existing entries, the entry "Representatives of the Calcutta Master Stevedores' Association", shall be substituted.

[No. 53(23)/67-Fac. II.]

K. D. HAJELA, Under Secy.

(Department of Labour and Employment)

New Delhi, the 13th May 1969

S.O. 1974.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Jabalpur, in the industrial dispute between the employers in relation to the management of Satna Cement Works, Satna and their workmen, which was received by the Central Government on the 7th May, 1969.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT,
JABALPUR

Dated April 28th, 1969

PRESENT:

Shri G. C. Agarwala

Presiding Officer

CASE REF. NO. CGIT/LC(R)(56) OF 1968

PARTIES.

Employers in relation to the management of Satna Cement Lime Stone Quarry of Satna Cement Works, Satna.

Versus

Their workmen

APPEARANCES:

For employers.—Shri B. K. Srivastava, Personnel Officer, Shri M. I. Mathur, Labour Officer.

For workmen.—Shri K. M. Pillai, General Secretary, Satna Cement Quarry Kamgar Union.

INDUSTRY: Lime Stone.

DISTRICT: Satna (M.P.)

AWARD

By Notification No. 36/7/67-LRI, dated the 22nd November, 1963, the Ministry of Labour, Employment & Rehabilitation (Department of Labour & Employment), Government of India, referred the following matter of dispute as stated in the schedule to the order of reference to this Tribunal for adjudication:—

Matter of Dispute

Whether the management of Satna Cement Works made any discrimination in payment of increased bonus upto 20 per cent for the year 1964-65 amongst the workmen of their quarries? If so, to what relief are the affected workmen entitled?

The Union Satna Cement Quarry Kamgar Union to be hereinafter called Quarry Kamgar Union which raised the dispute resulting in this reference came in existence in March, 1966. Before that, there was another Union functioning, called Satna Cement Factory Thata Quarry Mazdoor Congress, to be hereinafter called Quarry Mazdoor Congress. For the staff, both in the factory and quarries, the management made payment of 20 per cent for the year 1964-65 out of which 4 per cent was reckoned as bonus the remaining 16 per cent as *ex-gratia* payment. For workers both in factory and quarries, there was a payment of 10 per cent for the year in question out of which 4 per cent was accounted for towards statutory bonus and 6 per cent as advance payment. This payment of 4 per cent as statutory bonus both for factory and quarry was on the ground that the company had suffered a loss in the year in question and there was no allocable surplus for more payment as bonus. The Quarry Mazdoor Congress made a number of demands and a settlement was reached before the Conciliation Officer. For Factory workers, this settlement was arrived at and signed on 28th September 1965 Exhibit E-2. On the question of bonus for 64-65 it was decided that a submission shall be made to the Industrial Court M.P. at Indore and the decision of the said court would be binding. For quarry workers, a settlement was reached before the Conciliation Officer on the following day i.e. 29th September 1965 Exhibit E-1 and it was agreed that the settlement dated 28th September, 1965 with regard to factory workers would also be operative for quarry workers. In other words, the Union Quarry Mazdoor Congress agreed to accept the award of the Industrial Court which may be recorded for bonus in respect of both factory and quarry workers. The Industrial Court recorded in award copy Exhibit E-3 on 15th November, 1966. The submission of reference was in the following terms:—

"Whether the rate of bonus @ 4 per cent as declared by the management of Satna Cement Works, Satna on the basis of the balance-sheet and profit and loss account for the year April 1964—March, 1965 under the provisions of the Payment of Bonus Ordinance 1965 is correct. If not, what should be the percentage of bonus for the

said year on the basis of the balance-sheet and profit and loss account of the company for the said year"

In para 9 of the award, the Industrial Court held that only 4 per cent had been as Bonus to office staff and the remaining 16 per cent was additional remuneration. In the end, the award recorded was that the bonus of 4 per cent declared by Satna Cement Works on the basis of balance sheets and profit and loss account for the year 1964-65 under the provisions of payment of Bonus Act 1965 was correct. It may be mentioned that after conciliation settlements were reached with the management by the Quarry Mazdoor Congress, there seems to have been some agitation against the office bearers and it appears that the workers accepted payment on 1/3-10-65 rather grudgingly. After this the sponsoring Union the Quarry Kamgar Union came in existence. It raised a number of demands and gave a strike notice Exhibit E-8 on 4th April, 1966. Demand No. 4 related to bonus for 1964-65. It was stated that conciliation agreement dated 29 September, 1965 was entered into despite vehement opposition of a majority of workers and payment of staff at 20 per cent and to workers at 10 per cent was discriminatory. The actual nature of payment to staff above 4 per cent was nothing but bonus and the extra payment of 6 per cent to workers was also part of bonus and not actually an advance. The Ministry of Labour and Employment by communication dated 4th August, 1967 refused to make a reference on the ground that the matter was covered by agreement, meaning thereby settlement dated 29th September, 1965 (Exhibit E-9). It however appears that the agitation was continued resulting in this reference.

The case of the management is that there had been a loss as would appear from the extract of balance sheet and the profit and loss account filed with actuarial certificate of the Chartered Accountant (Exhibits E-4 and E-5). The payment which was made to members of the staff above 4 per cent was not in the nature of bonus but *ex-gratia* payment by way of additional remuneration for good work. It was further contended that the matter is concluded by conciliation settlement dated 29th September 1965 and the award of the Industrial Court. There is no occasion to revive the dispute and the principle of res-judicata would apply. The Union on the other hand contended that there has been discrimination which is invidious between staff members and workers. The extra payment of 16 per cent was nothing but actually bonus and the workers of the quarry are also entitled to the same amount as bonus, and the ment of 6 per cent as advance should be treated as part payment towards bonus. The conciliation settlement dated 29th September 1965 was collusive and against the wishes of majority of workers and which gave birth to this union, Quarry Kamgar Union. On the pleadings of the parties, the following additional issues were framed in the case.

Issues

- (i) What is the effect of conciliation settlement dated 29th September 1965 between the employers and Satna Cement Factory Thata Quarry Kamgar Mazdoor Union and subsequent decision of Industrial Court in Case No 2/MPIR/65. Is the claim barred by principle of res-judicata?
- (ii) Whether the employers have discriminated by paying 20 per cent to some and 10 per cent to others. Was this payment in the nature of bonus or additional remuneration to some and advance to others?
- (iii) As in order of reference?

Issue No. 2:

This issue may be taken up first. There is no denying the fact that the employers have discriminated by paying 20 per cent to members of the staff and 10 per cent to the other workers. Not only this, the extra payment of 16 per cent to staff members has been treated as *ex-gratia* payment not to be accounted for in future and virtually amounts to a gift, where-as to workers, the extra 6 per cent is in the nature of an advance to be adjusted in future. The management was required to furnish the figures and Exhibit E-12 would show that the supervisory and clerical staff were 23 in number to whom *ex-gratia* payment was made. The number of time rated and Piece rated workers who had been paid 6 per cent advance is 1308. From the affidavit of Shri Sethia, it is found that a sum of Rs. 13,195.54 was paid as *ex-gratia* payment to staff members in quarry. If similar *ex-gratia* payment had been made to workers of quarry the amount would have been Rs. 2,23,254.12. It is clear that the management would have had to pay quite a big amount if they had paid similarly to workers as had been done to staff members and which was not quite a substantial amount. In the past also members of the staff had been paid same *ex-gratia*

payments in the years 1963 and 1964 in addition to Puja bonus. The amount has not been stated in the affidavit but Shri Mathur, Labour Officer as management's representative admitted that the payment in earlier years was on the basis of one month's salary as *ex-gratia* payment in addition to Puja bonus. Workers were neither given any *ex-gratia* payment nor Puja bonus. They were paid on the basis of clinker production under the settlement dated 30th October 1961. It would thus appear that there has been different standards in the payment to members of the staff and the workers even in the previous years. Whether this was justified or not is not a matter for consideration under this reference. The narrow point to be considered is whether the extra payment of 16 per cent to members of the staff can be treated as payment for bonus. It is true that payment was made in Form 'C' Register, both for bonus and this *ex-gratia* payment. But these payments have been separately described in the payment register as it would appear from copy filed Exhibit E-7 and original register produced for inspection. Payment to Workers, both for bonus at 4 per cent and 6 per cent advance was also made in one and the same Form 'C' Register. Bonus is a technical term having a special connotation. The extra payment of 16 per cent could not have been made as bonus because the company had gone in loss and there was no allocable surplus. This extra payment of 16 per cent to staff members undoubtedly was a special favour and discriminatory but it cannot be treated as bonus payment. The issue is held accordingly.

Issue No. 1:

There is nothing to indicate that the conciliation settlement dated 29th September, 1965 was in any way collusive. Shri R. N. Prasad W.W. 1 Secretary of the Kamgar Union simply stated that when the settlement was reached there was an agitation and the workers did not accept the payment for 10 days. The workers demanded that they should be paid on the same basis as staff members. He, however, admitted that there was only one Union at that time and because of rivalries among office bearers and malpractices, the Union was dissolved giving birth to Satna Cement Quarry Kamgar Union. There is no suggestion that the settlement dated 29th September, 1965 was collusive. As a matter of fact the settlement covered a number of demands and for the bonus question, it had been left for the decision of the Industrial Court which may be recorded for factory workers on the basis of settlement dated 28th September, 1965. The award was made much later on 15 November, 1966. No collusion could have been conceived at that time. The present Kamgar Union was not even in existence. A *bona fide* settlement arrived at in the course of conciliation proceedings or before Conciliation Officer is binding of the entire body of the workmen under Section 18(1) and (3) I.D. Act. The award of the Industrial Court no doubt referred to the question of bonus on the basis of profit and loss account but in paragraph 9 of the award, the Industrial Court has held that the extra payment to members of the staff was in the nature of additional remuneration. This part of the award read with reference to the settlement dated 29th September 1965 would be binding on the workmen. The award as such can not be invoked to operate as res judicata and in fact could not be so invoked as the Industrial Court was not competent to adjudicate on the question of payment to mine employees. The rule or principle of res judicata therefore is not attracted. The award has only to be read as part of settlement dated 29th September, 1965 which was a *bona fide* statement between the management and the then existing Union.

Issue No. 3:

With the terms of reference as they are it cannot be said that the management made any discrimination in the payment of increased bonus up to 20 per cent for the year 1964-65 amongst the workmen of their quarries. The discrimination actually has been made by payment of 16 per cent additional remuneration on *ex-gratia* basis to 23 employees of the staff. The dispute from the very beginning seems to have been raised on wrong premises and assumption that the extra payment of 16 per cent was increased bonus and presumably on this wrong assumption the reference has been inaccurately worded. The Union should have raised a dispute about this extra payment not as part of bonus but as *ex-gratia* discriminatory payment and if and when such a dispute is raised and results in reference, the question can be examined in that light. For the present, the reference, as expressed for discrimination for the increased bonus up to 20 per cent must be answered in negative on the finding that no discrimination in payment of increased bonus up to 20 per cent for the year

1964-65 amongst the workmen of their quarry was made by the management and the affected workmen are not entitled to any relief. No order for costs.

(Sd.) G. C. AGARWALA,
28-4-1969.
Presiding Officer.
[No 36/7/67-LRI]

New Delhi, the 15th May 1969

S.O. 1973.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (1* of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Jabalpur, in the industrial dispute between the employers in relation to the Nandini Lime Stone Mines of Bhilai Steel Project, Bhilai and their workmen, which was received by the Central Government on the 6th May, 1969.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT, JABALPUR.

Dated, April 23, 1969

PRESENT:

Shri G. C. Agarwala Presiding Officer,
CASE REF. NO. CGIT/LC(30) OF 1966 JABALPUR.
CASE No. CGTT (14)/1965 (BOMBAY)

PARTIES.

In the matter of an Industrial Dispute between the Employers in relation to Nandini Lime Stone Mines of Bhilai Steel Project and their Workmen.

APPEARANCES:

For employers—S/Sri K. G. Marar & P. K. Jha, Additional Labour Welfare Officers.

For Workmen—Sri P. K. Thakur, Vice-President, S. K. M. Sangh.

INDUSTRY: Lime Stone Mine.

DISTRICT: Durg (M.P.).

AWARD

By Notification No. 22/41/64-LR-I dated 17th February 1965 Ministry of Labour and Employment, Government of India, referred the following matter of dispute as stated in the Schedule to the order of reference under Sec. 10 of Industrial Disputes Act, for adjudication to the Central Government Industrial Tribunal, Bombay:—

Matter of Dispute

1. Whether the workers of Nandini Mechanised Mines of Bhilai Steel Project, Post Office Nandini Mines, Durg District had achieved the target of production to entitled themselves for the payment of 10 per cent production bonus in the month of August, 1964?
2. If so, whether the management was justified in denying the payment thereof to the workers? If not, to what relief are they entitled?

The proceedings remained pending before the said Tribunal from 26th February 1965 to 12th October, 1966, whereafter case was transferred to this Tribunal by Notification No 26/11/66 dated 26th September 1966.

2. On the above reference an award was recorded by This Tribunal on 30th January 1967 (Annexure A) published in the Gazette of India Pt. II-Sec. 2(ii) vide Notification No. 22/41/64-LRI dated 24th February 1967. The management filed a writ petition before the Hon'ble High Court Madhya Pradesh, under Articles 226 and 227. The Hon'ble Court recorded a judgment dated 10th February, 1969 (Annexure B). The operative part of the order runs as follows:—

“We would, accordingly allow this petition and issue a writ of *Certiorari* for quashing the award dated 30th January, 1967 of the Industrial Tribunal-cum-Labour Court (Central), Jabalpur, with a further direction that it shall proceed to draw up an award afresh, with advertance to the observations made by us. The outstanding security amount, if any, shall be refunded to the petitioner, which shall also be entitled to its costs Hearing fee Rs. 100/-, if certified

3. In compliance with the above order an award is hereby recorded holding that the workers of Nandini Mechanised Mines were not entitled to Production Bonus for the month of August, 1964. Issue No. 1 is answered accordingly Issue No. 2 under reference does not arise.

(Sd.) G. C. AGARWALA,
23-4-1969.

Presiding Officer.

ANNEXURE 'A'

BEFORE THE INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT (CENTRAL) AT JABALPUR

Dated January 30, 1967

PRESENT:

Sri G. C. Agarwala—Presiding Officer.

REFERENCE No. CIT/LC (30)/1966 (JABALPUR)

REFERENCE No. CGIT—(14)/1965 (BOMBAY)

In the matter of an industrial dispute between the employers in relation to Nandini Lime Stone Mines of Bhilal Steel Project and their workmen.

APPEARANCES:

For the employers.—S/Sri L. J. Kale, Senior Labour Officer (Mines) & G. P. Dubey, Asstt. Law Officer (Mines).

For the workmen.—1. Sri H. C. Gupta, Secretary, Steel Workers Union.
2. Sri P. K. Thakur, Vice-President, S. K. M. Sangh.

INDUSTRY—Lime Stone Mine.

DISTRICT—Durg (M.P.)

AWARD

By Notification No. 22/41/64-LR-I dated 17th February 1965 Ministry of Labour and Employment, Government of India, referred the following matter of dispute as stated in the Schedule to the order of Reference under Section 10 of Industrial Disputes Act, for adjudication to the Central Government Industrial Tribunal, Bombay:

SCHEDULE

1. Whether the workers of Nandini Mechanised Mines of Bhilal Steel Project, Post Office Nandini Mines, Durg District had achieved the target of production to entitle themselves for the payment of 10 per cent production bonus in the month of August, 1964?
2. If so, whether the management was justified in denying the payment thereof to the workers? If not, to what relief are they entitled?

The proceedings remained pending before the said Tribunal from 26th February 1965 to 12th October, 1966 whereafter case was transferred to this Tribunal by Notification No. 26/11/66 dated 26th September 1966.

In order to comprehend the actual controversy, it would be necessary to give a brief history as a back ground of the dispute.

With a view to encourage production in the mechanised mine in Nandini, the General Manager of the Bhilal Steel Project prepared a scheme known as H.S.L. Mines Bonus Scheme which is Exts. E. 7 and E. 7/A of the record. It was made effective from 1st December, 1961 and was made applicable among other mines to Nandini Mechanised Mine also. Certain graded slabs were mentioned for the progressive rate of bonus. It would be sufficient to state that for production of 25 mm to 80 mm. sized lime stone chips, the minimum quantity for a month's production was fixed at 27,600 tons. For crossing this target, the workers were entitled to 10 per cent bonus. The maximum was fixed at 46000 tons per month for crossing which the workers were eligible to 50 per cent bonus. This was admissible only to mechanised mines. For calculation of monthly production, the method laid down was that for the first 25 days of the calendar month the actual production of the period would be taken into account. For the remaining days of the calendar month, the basis was to be estimated on pro-rata basis of the actual production for the first 25 days. The difference between the actual production and the estimated production of the previous month from 26th day till the close of the previous month

was, however, to be adjusted in the production of the current month. This method of calculation stated in paragraph 6 of the scheme is in following terms:—

"6. (a) *Calculation of monthly production.*—The total monthly production for any Mine shall be calculated as follows:—

- (i) The production for the first 25 days of a calendar month shall be the actuals for that period;
- (ii) The production for the remaining days of that month (26th to the last day of the month) shall be estimated pro-rata on the basis of the actual production for the first 25 days.
- (iii) The difference between the actual production and estimated production as for the period from 26th day to the last day of the previous month shall be adjusted in the production of this month.

NOTE.—All production figures in the above calculation shall consist only of approved production which qualifies for Bonus."

The statement filed & prepared by the management for the months of April, 1964 to August, 1964 (Ex E 9) would show how the actual and estimated production was calculated for the purpose of bonus during these months. For April, 1964 the actual production from 1st to 25th was 29,998.80 tons. The estimated production of pro-rata was 5,999.75 tons. The total reached was 35,998.55. The last month short-fall was 25.91 tons. Bonus, therefore, paid was on 35,972.64 tons. It may be noticed that the actual production for the month of April, however, was 35,730.30 tons whereas the estimated production calculated for bonus was 35,998.75 tons. Thus there was a actual shortage of 268.55 tons. This shortfall was to be carried forward and deducted in the following months and was so deducted from the figures similarly calculated for the month of May, 1964. The bonus was paid in the months of April and May, 1964, the target having crossed the minimum of 27,600 tons. The target could not be crossed in the months of June and July on the basis of the above calculation and therefore no bonus was paid during these months. The dispute relates for the month of August. The actual production upto 25th August was 22,724.70 tons and the estimated production on pro-rata basis from 26th to 31st was 5,453.94 tons. The total of these two figures comes to 28,178.64. Out of this the shortfall of the previous month of July was 683.56 tons leaving a balance of 27,495.08 tons. As this figure did not reach the target of 27,600 tons, the management gave no bonus for the month of August giving rise to this dispute.

It appears that there are three Unions which raised the identical dispute before the Conciliation Officer. They are (1) Bhilai Steel Kamgar Sangh, (2) Steel Workers Union and (3) Samyukta Khadan Mazdoor Sangh. Separate conciliation proceedings seem to have been undertaken by the Conciliation Officer and he submitted separate failure reports but on the same date which resulted in this reference. All the three unions claimed that the workers should have been paid bonus for the month of August, 1964.

The management and all the three Unions filed their pleadings before the Bombay Tribunal. During the hearing before this Tribunal, the Bhilai Steel Kamgar Sangh, however, remained absent throughout and the workmen's case has been represented by the Samyukta Khadan Mazdoor Sangh and the Steel Workers Union.

At the request of the parties, I made a spot inspection in order to understand the working of the Crushing Plant. A Flow Diagram (Ex. W/4) which was filed by the Bhilai Steel Kamgar Sangh was taken as a basis diagram but a complete Schematic Diagram of equipment was filed by the management and which is a part of my inspection note dated 16th January 1967. This will show the various machined process through which excavated material pass from the Dumper till the final process in the end upto Hopper Cars.

No oral evidence was produced by the parties. The Bhilai Steel Kamgar Sangh filed an extract of Production Bonus Scheme and the Flow Diagram mentioned above which have been marked as Exts. W.1. and W.2. The Samyukta Khadan Mazdoor Sangh filed certain papers as annexures to their written statement out of which it would be relevant to refer only to two and which have been marked as Exts. W.3 and W.4. The employers were required to file Log Book for certain months which are Exts. E.1 to E.5. They also filed two statements Ex. E.6 and E.7 together with certain statements which they were required to file on affidavit and are Ext. 8/A to Ex. E-8/D and E.9, as also the Bonus Scheme, Ex. E/10.

It is not necessary to refer to the various grounds on which the Unions based their claim in their pleadings for production bonus for the month of August. The

allegation of malafide on the part of the management have not been substantiated by any evidence and may be ignored. It would be sufficient to refer to such of the grounds as have been pressed during arguments by representatives of both the unions.

The first ground urged is that the scheme as propounded is unscientific and unfair, inasmuch as from the production of any particular month, the short-fall of the previous month is deducted. The scheme no doubt is defective in this sense as the actual production of the month is not taken into account. The method by which the assumed production is reached on pro-rata basis after the 25th day of any month is not adhered and taken into account but from this the short-fall of the previous month is deducted. This means that the real production is not taken into account. Be that as it may, we have to take the Scheme as such and it is not open to modify that Scheme for the purpose of this reference. The workers had been paid or denied bonus in previous months on the basis of this scheme and the same method will have to be applied for the month of August, 1964, also. The scope of this reference is not to determine the reasonableness or otherwise of the scheme but to determine on the basis of the scheme as such whether the workers were entitled to bonus or not. It may incidentally be mentioned that the management later on realised the flaw in the scheme and modified the same by an order dated 7th February 1965, copy Ex. W/4. The calculation thereafter was on the basis of the actual production from the first working day of the same month from February 1965 onwards. Even if the contention of the workers that the actual production for the month of August should be taken into account be accepted, it would appear from the statement Ex. E/9 that the actual production was 27,148.80 tons. If the actual production is taken into account they obviously did not reach the target. The assumed production on the basis of which calculations had been prescribed in the scheme was evidently to their advantage as on that basis they were short by 104.92 tons only. The Scheme, therefore, cannot be assailed by the workers in this dispute and obviously for the month in question it operated to their advantage.

The next point urged was that the previous month short-fall of 683.56 tons should not be deducted when they had not been paid bonus in the month of July as also in the month of June. Under the Scheme, the short-fall was not to be made dependant upon the fact whether in the previous month bonus had or had not been paid. It was a method for the purpose of calculation and therefore this point is also untenable.

The third point pressed during the arguments was that on the crucial date, which was 25th August 1964, the Log-book (Central Operator Despatchers Log Book) Ex. E/5 at page 35 shows that because of the jamming in the Bunker, the machines were stopped. This jamming was removed by 9.30 P.M. It was contained that if there had been no jamming the production would have easily crossed the target and the workers should not be visited with the consequences of this stoppage by jamming in the bunkers. There is nothing to indicate that this was a deliberate act on the part of the management. Such stoppages are usual in the working of the machines and as the Log-book would show, this had been quite frequent. This argument, therefore, is also of no avail.

The last but not the least in importance is a pertinent contention pressed on behalf of the workers. From the Log-book (Ex. E/5) at page 35 it is clear that although jamming was removed and the machines were fit for operation at 9.30 p.m. still there was no working done for the rest of the period of the shift which lasted upto 10 p.m. It is further evident that nearly three dump-cars load of material had been left in the bunker. This quantity of the material had not been taken into account and if the management had not stopped the working of the shift even after clearance of the jamming in the bunker the target could have been easily crossed. The quantity of material in the bunker should be taken into account as the production for the last shift on the 25th of August. One Dump-car carries 60 metric tons of material and for three Dump-cars the quantity in the bunker was 180 metric tons. Allowing for the average elimination at 25 per cent. as has been the average worked out by the management in their chart for smaller chips below 25 mm., there would still be a balance of 135 tons in the bunker which could have gone to the credit of the workers of 80—25 mm. size and if this quantity is added the workers exceed the target of 27,600 tons. No reasonable explanation has been offered on behalf of the management why three dump-cars of material was allowed to remain in the bunker before closing the shift all together and which was the last shift for the day. There are instances when the shift had been worked upto 9.55 p.m. and such instances have been detailed by the Union, Samyukta Khadan Mazdoor Sangh, in their objections to the Log-books, filed on 14th January, 1966. They have been enumerated in paragraphs 1 to 6

of the objections. The day was a crucial one for the workers and the management should have been fair to see that the three dump-car materials which had already gone to the bunker should have been cleared for final crushing before closing the shift. If this quantity of the material is taken into account which should be in a case like this where workers are being deprived of eligible bonus under a Scheme framed by the management itself, it is obvious that the target of 27,600 is easily crossed. After all this, quantity of material had passed through all the stages of drilling and blasting, excavation, transport and only the crushing and the screening part of it had remained to be performed. This last stage could have easily been completed within the remaining half hour of the closing of the shift. The workmen cannot be visited with the consequences of this material omission on the part of the management and which operated to the prejudice of the workers claim for eligibility of bonus. If this quantity of the material in the bunker is taken into account and deducting therefrom the screened chips below 25 mm. it would be found that the workers still become entitled to bonus in accordance with the Scheme formulated by the General Manager by his order dated 28th December, 1961 and the method for calculation of monthly production as prescribed in the Scheme.

The result, therefore, is that the workers of the Mandini Mechanised Mine of the Bhi'ai Steel Project are found to have achieved the target of production so as to be entitled for the payment of 10 per cent production bonus in the month of August, 1964 and the management was not justified in denying the payment thereof to the workers. The workers are entitled to production bonus for having crossed the figure of 27,600 tons during the month of August, 1964. The Steel Workers Union and the Samyukta Khadan Mazdoor Sangh both will be entitled to Rs. 100/- each as costs of this proceeding from the management.

(Sd.) G. C. AGARWALA,
Presiding Officer.

Industrial Tribunal, Labour Court,
(Central) at Jabalpur, 30/1/67.

Part of Award

(Sd.) G. C. AGARWALA,
Presiding Officer.

ANNEXURE 'B'

MISCELLANEOUS PETITION No. 153 OF 1967

The Hindusthan Steel Ltd.

V.

The Presiding Officer, Industrial Tribunal-cum-Labour Court, and 3 others.

ORDER

By this application under Articles 226 and 227 of the Constitution, the petitioner, the Hindusthan Steel Ltd., representing the Bhilai Steel Project (hereinafter referred to as the "Management"), applies for a writ of *Certiorari* to quash an award of the Industrial Tribunal-cum-Labour Court (Central), Jabalpur, dated the 30th January 1967, directing payment of 10 per cent bonus to the workers of its Nandini Mechanised Mines for the month of August 1964, and for an appropriate direction declaring that they were not so entitled to such bonus.

2. The material facts are these. With a view to encourage production in its Nandini Mechanised Mines, the Bhilai Steel Project introduced a scheme for payment of an incentive bonus, known as the HSL Mines Bonus Scheme, providing for payment of bonus in certain rising grades of slabs of progressive rates, depending upon the total output of limestone in the month. Under the scheme, the workers are entitled to 10 per cent of their total basic pay earned during the month as bonus when the total approved production exceeds 27,600 tons of limestone per month. This is the minimum target provided in the scheme for earning bonus at the lowest slab, i.e., 10 per cent. We are not concerned with the higher slabs of bonus in this case. For the purpose of calculation of monthly production, the method laid down in paragraph 6 of the scheme is that, for the first 25 days of the calendar month, the actual production of the period would be taken into account, and for the remaining period of the month, the basis is an estimate on *pro-rata* of the actual production for the first 25 days. If the production in the previous month was in deficit of the minimum target of

27,600 tons, that had to be deducted from the production figures of the current month, i.e., the Management was entitled to an adjustment of any shortfall in production of the previous month.

3. In the month of August 1964, the position, as per calculations provided for in the scheme, was as under:—

Actual production upto 25th August	22 724.70 tons
Estimated production on <i>pro rata</i> basis from 26th to 31st August	5,453.94 tons
<hr/>	
Total	28,178.64 tons
Shortfall of production of July 1964	683.56 tons
<hr/>	
Balance	27,495.08 tons
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As the balance figure of 27,495.08 tons in August 1964 did not reach the minimum target of 27,600 tons per month, the Management accordingly gave no bonus to the workers for that month. A dispute having arisen between the Management and its workers regarding the payment of 10 per cent bonus of their total basic pay earned during the month of August 1964, the Central Government made a reference of the following questions to the Industrial Court, under section 10 of the Industrial Disputes Act, 1947, for its adjudication:

- "1. Whether the workers of Nandini Mechanised Mines of Bhilai Steel Project, Post Office Nandini Mines, Durg District, had achieved the target of production to entitle themselves for the payment of 10 per cent production bonus in the month of August, 1964?
2. If so, whether the Management was justified in denying the payment thereof to the workers? If not, to what relief are they entitled?"
4. Before the Industrial Court, the grievance of the workers was that—
 - (i) on the crucial date, i.e., on 25th August, 1964, there was a jamming in the bunker as a result of which the operation of the crushing plant was stopped and 3 dump car-loads of the material were left in the bunker, weighing approximately 180 tons of limestone;
 - (ii) but for this jamming, the 180 tons already loaded into the cars in the bunker would have definitely been crushed, conveyed and screened, making them eligible for the production bonus of 10 per cent even according to the Management, as the figures of approved production would then have exceeded the minimum target of 27,600 tons in that month;
 - (iii) this jamming had admittedly been removed at 9.30 P.M. and the shift in question on that day was to last upto 10 P.M.;
 - (iv) the Management, however, improperly directed stoppage of working of that shift at 9.30 P.M., i.e., half an hour before the closing time.

It was therefore, urged by the workers that the quantity of the material already left in the bunker should have been taken into account as the production for the last shift on that crucial date.

5. Although the parties led no evidence, the Industrial Tribunal apparently rested its decision on personal observation of the working of the crushing plant on a spot inspection carried out for a better understanding of the actual working of the mines. Its adjudication proceeds on these lines:

- (1) The HSL Mines Bonus Scheme providing for payment of bonus not on the actual production in any particular month, but on the actual production upto the 25th day, and for the remaining period on a *pro rata* basis with a provision for adjustment of the shortfall during the previous month was unassailable by the workers as unfair or unjust.
- (2) Such stoppage of working by jamming in the bunker was usual in the working of the mines and of frequent occurrence and, therefore, the workers would not be entitled to their 10 per cent bonus merely

because the approved output in production would have crossed the target if there was no jamming.

6. Nevertheless, the Tribunal held that the workers were entitled to a bonus at the rate of 10 per cent of their total basic pay during the month of August 1964. In that connection, the Tribunal observed :

"If this quantity of the material in the bunker is taken into account and, deducting therefrom the screened chips below 25 mm., it would be found that the workers still become entitled to bonus in accordance with the scheme formulated by the General Manager by his order dated 28th December, 1961, and the method for calculation of monthly production as prescribed in the scheme."

In other words, the view of the Tribunal was that, if the Management had not stopped the working of the shift after the clearance of the jamming at 9.30 P.M. on 25th August, 1964, the target would have been easily crossed and, therefore, the quantity of material left in the 3 car-loads in the bunker should be taken into account as the production for the last shift on that fateful day. On that view, the Tribunal held that the workers of the Nandini Mechanised Mines were entitled to a bonus at the rate of 10 per cent of their total basic pay for the month of August 1964.

7. We are clearly of the view that the Industrial Tribunal was entirely wrong in its adjudication, awarding to the workers 10 per cent bonus of their total basic pay earned during the month of August 1964, despite the fact that the approved production of limestone in that month was 27,495.08 tons which is lesser than the minimum target as per the formula set out in the Scheme, which alone makes them eligible for such bonus. When there was a mechanical failure resulting in a shortfall in production due to jamming in the bunker, the mere circumstance that 3 car-loads of the material weighing 180 tons were left in the bunker would not necessarily entitle the workers to such bonus, unless they were further able to establish any *malafides* on the part of the Management or some over-act by them which prevented that material from being carried through its final stages. The burden of proving this undoubtedly lay on the workers which they have failed to discharge by declining to adduce any evidence. Thus, the workers are not ordinarily entitled to any bonus under the scheme unless they cross the minimum target of 27,600 tons of "approved production", i.e., material which has passed through all the stages, of drilling and blasting, or excavation and transport, and of crushing and screening. Admittedly, the material left in the bunker at 9.30 P.M. on 25th August 1964 still remained to be crushed, conveyed and screened and, therefore, could not be taken into account as part of the production for the last shift of that night.

8 The workers had definitely alleged that--

- (i) the Management had deprived them of the bonus by making a false and *malafide* announcement at 9 P.M. on 25th August, 1964 before the closure of the shift, i.e., half an hour earlier than the closing time, that like every other month, the approved production had already crossed the target and would entitle the workers to earn their 10 per cent production bonus for that month also; and that
- (ii) after the said announcement, the working of the shift was closed earlier than the usual time with an ulterior view to prevent the carriage of the 3 car-loads of the material left in the bunker through its final stages. Now, these allegations were specifically denied by the Management in their rejoinder which asserted that the shift on that day had worked upto the scheduled time, i.e., till 10 P.M. and that there was no announcement on that night of the kind alleged by the workers stating that they had become entitled to production bonus for the month of August 1964. The Management having denied that no such declaration was ever made on 25th August 1964 at 9.30 P.M., the burden of establishing this was on the workers. These undoubtedly were disputed questions of fact, involving the taking of evidence. Without such evidence, the Tribunal could not have attributed any ulterior motive to the Management for having closed the shift at 9.30 P.M. unless it was shown that the closure was with a view to depriving the workers of their legitimate dues. Nor is there any evidence adduced by them to substantiate any *malafide* on the part of the Management. On the contrary, the circumstances appearing on record suggest that the actual production as on 25th August 1964 could never

be known on that day itself. That is because production figures of any particular month are only known after there is accounting at the end of that month. No one could, therefore, have imagined that there would be shortfall of 104.9 tons of the "approved production" during the month of August 1964 at the time when the shift in question was closed at 9.30 P.M. on 25th August, 1964. It appears that, after there was jamming in the bunker, the shift was, in effect, closed because the workers had already left the mine thinking that the material left in the 3 dump car-loads would be conveyed to the crusher in the next shift on the 26th August, 1964 when the machine would be re-started. At any rate, there was nothing on record to show that, within the time that was left, the machine could be re-started and the material duly crushed, conveyed and screened before the closure of the shift.

9. The award of the Industrial Tribunal is further vitiated because it wrongly assumed that there was omission on the part of the Management to re-start the engine which could have shifted the material, that was allowed to remain in the bunker, along the conveyer belt to the crusher, before the closing time. It observes:

"No reasonable explanation has been offered on behalf of the Management why 3 dump car-loads of material was allowed to remain in the bunker before closing the shift all together and which was the last shift for the day. There are instances when the shift had been worked upto 9.55 P.M."

Apart from this, the Tribunal further states:

"The day (25th August 1964) was a crucial one for the workers and the Management should have seen that the 3 dump car-loads of material which had already gone to the bunker should have been cleared for final crushing before closing the shift. If this quantity of the material is taken into account which should be in a case like this where workers are being deprived of eligible bonus under a Scheme framed by the Management itself, it is obvious that the target of 27,600 tons is easily crossed."

These observations proceed on mere surmises. Now, suspicion or conjecture cannot take the place of proof. These are matters which should have been proved like any other fact in issue. The jamming was no doubt removed at 9-30 P.M., but there is not an *iota* of evidence to substantiate that the machine could be re-started within 30 minutes left for the closure of the shift or that there was time sufficient for the production of 104.9 tons of "approved—specification" to enable the workers to reach the minimum target.

10. Before closing this discussion, we would like to affirm that a writ of *Certiorari* can issue against an arbitrator functioning under section 10 of the Industrial Disputes Act. In *Rex V. Disputes Committee of National Joint Council for the Draft of Dental Technicians* [(1953) 1 All E.R. 327], Lord Goddard C.J. had stated:

"There is no instance of which I know in the books, where *certiorari* or prohibition has gone to any arbitrator, except a statutory arbitrator, and a statutory arbitrator is a person to whom, by statute, the parties must resort."

Following this *dictum*, there was a conflict of opinion whether an arbitrator functioning under section 10-A of the Industrial Disputes Act, 1947, was a statutory arbitrator against which a writ of *Certiorari* can issue under Article 226. That conflict has now been settled by their Lordships of the Supreme Court in *Engineering Mazdoor Sabha V. Hind Cycles Ltd.* (A.I.R. 1963 S.C. 874). Having regard to the different provisions of the Industrial Disputes Act and the rules framed thereunder, their Lordships have stated that, although an arbitrator appointed under section 10A cannot be treated to be exactly similar to a private arbitrator to whom a dispute has been referred by an arbitration agreement under the Arbitration Act, nevertheless, he is clothed with certain powers, his procedure is regulated by a set of rules and the award pronounced by him is given by statutory provisions a certain validity and a binding character for a specified period; therefore, such an arbitrator must be regarded as a statutory arbitrator. Their Lordships, accordingly held that a writ may issue for quashing his award under Article 226 of the Constitution. These principles equally apply to this case. Even otherwise, the present reference of an industrial dispute for its adjudication is to the Industrial Court, which undoubtedly is a tribunal amenable to this Court's directions under Article 227 of the Constitution.

11. We would, accordingly allow this petition and issue a writ of *Certiorari* for quashing the award dated 30th January 1967 of the Industrial Tribunal-cum-Labour Court (Central), Jabalpur, with a further direction that it shall proceed to draw up an award afresh, with advertence to the observations made by us. The outstanding security amount, if any, shall be refunded to the petitioner, which shall also be entitled to its costs. Hearing fee Rs. 100/-, if certified.

(Sd.) A. P. SEN,

Judge,

10-2-1969

(Sd.) G. P. SINGH,

Judge,

10-2-1969

PART OF AWARD

(Sd.) G. C. AGARWALA,

Presiding Officer.

[No. 22/41/64-LRI.]

S.O. 1976.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, (No. 3) Dhanbad, in the industrial dispute between the employers in relation to the management of Messrs Bolani Ores Limited, Post Office Barbil, District Keonjhar (Orissa) and their workmen, which was received by the Central Government on the 8th May, 1969.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 3) AT DHANBAD

REFERENCE NO. 1 OF 1968

PRESENT:

Shri Sachidanand Sinha, M.A.M.L., Presiding Officer.

PARTIES:

Employers in relation to the management of Messrs Bolani Ores Limited

AND

Their workmen.

APPEARANCES:

For employers—Shri S. K. Sinha.

For workmen—J. R. Dash, General Secretary.

INDUSTRY: Ore.

STATE: Orissa.

Dhanbad, dated the 29th of April, 1969

AWARD

1. The Central Government, by its order No. 24/19/68-LRI, dated the 12th of July, 1968 referred to this Tribunal under section 10(1)(d) of the Industrial Disputes Act, 1947 for adjudication the industrial dispute existing between the employers in relation to the Management of M/s. Bolani Ores Limited, Post Office Barbil, District Keonjhar (Orissa) and their workmen, in respect of the matters specified in the Schedule annexed thereto. The schedule is extracted below:

SCHEDULE

"Whether the termination of the services of Sri Tul Bahadur, Security Guard, with effect from the 12th January, 1966 by the management of Messrs Bolani Ores Limited, Post Office-Barbil, District Keonjhar (Orissa) was justified? If not, to what relief, is he entitled?"

2. Neither the management nor Barbil Worker's Union which has espoused the cause of the workmen filed the written statement on the ground that the matter has been amicably settled. They have filed a joint memorandum of settlement. It is duly verified by Sri R. K. Gandhi, Superintendent, Messrs Bolani

Ores Limited on behalf of the management and by Sri J. R. Dash, General Secretary, Barbil Worker's union on behalf of the workmen.

3. According to the terms of settlement the management has agreed that Shri Tul Bahadur, the concerned workman will be taken back on a fresh employment on the last pay drawn, latest by 30th June, 1969.

4. Terms are considered satisfactory and the same are accepted. Accordingly I accept the terms of settlement and pass an award in terms of the joint settlement annexure 'A' which shall form part of the award.

5. Let the reference be disposed of in terms of the compromise which shall form part of the award. The award may now be submitted to the Central Government under section 15 of the Industrial Disputes Act, 1947.

(Sd.) SACHIDANAND SINHA,
Presiding Officer.

ANNEXURE 'A'

Memorandum of settlement arrived at in course of discussion held with Barbil Workers' Union on 29th March, 1969

Representing Employer :

Mr. R. K. GANDHI,
Superintendent,
Bolani Ores Limited,
P.O. Bolani,
Keonjhar Dist. (Orissa).

Representing Workmen:

Mr. J. R. DASH,
General Secretary,
Barbil Workers' Union,
P.O. Barbil,
Keonjhar Dist. (Orissa).

Short Recital of the Case

At the instance of the General Secretary, Barbil Worker's union, a dispute regarding the refusal of employment to Shri Tul Bahadur, Security Guard, a workman in Bolani Ores Limited, was referred by the Government of India, in their notification No. 24/19/68-LRI dated the 12th July, 1968 to the Central Government Industrial Tribunal for adjudication.

With a view to maintain cordial relationship, the parties mutually discussed the matter in a joint meeting at Bolani on 29th March, 1969 and arrived at the following terms of settlement.

Terms of Settlement

1. Messrs. Bolani Ores Limited agreed that Shri Tul Bahadur will be taken back on a fresh employment on the last pay drawn, latest by 30th June, 1969.
2. The management and the Union agreed that this will not create or be cited as a precedent for future cases of like nature.
3. The Union and the management agreed to send copies of this agreement to the Tribunal with a request that an award on the line may please be given.

Representing Employer:

(Sd.) R. K. GANDHI.

Representing Workmen:

(Sd.) J. R. DASH.

[No. 24/19/68-LRI.]

ORDERS

New Delhi, the 13th May 1969

S.O. 1977.—Whereas the industrial disputes specified in the Schedule hereto annexed are pending before Shri M. Tajammul Hussain, Presiding Officer, Industrial Tribunal, Madras.

And whereas Shri M. Tajammul Hussain has retired and his services are no longer available ;

Now, therefore, in exercise of the powers conferred by section 7A, and sub-section (1) of section 33B of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby constitutes an Industrial Tribunal with Thiru B.S. Somasundaram as the Presiding Officer, with headquarters at Madras, withdraws the proceedings in relation to the said disputes from Shri M. Tajammul Hussain and transfer the same to the said Industrial Tribunal, Madras, for the disposal of the said proceedings with the direction that the said Tribunal shall proceed with the proceedings from the stage at which they are transferred to it and dispose of the same according to law.

SCHEDULE

Sl. No.	Reference No. on the file of the Tribunal	Notification No. and date	Parties to the dispute
1	2	3	4
1	I. D. No. 6 of 1968	1/23/67-LRII dated 18-1-1968.	Workmen and the management of Neyveli Lignite Corporation, Neyveli.
2	I.D. No. 70 of 1968	25/3/68-LRIII dated 26-7-1968.	Workmen and the management of M/s. New India Assurance Co. Ltd., Madras-1.
3	I.D. No. 61 of 1968	29/8/68-LRIII dated 16-7-1968.	Workmen and the management of M/s. S. G. Sambandam, Steamer, Shipping & Clearing Agents, Madras-1.
4	I.D. No. 82 of 1968	29/36/68-LRIII dated 16-9-1968.	Workmen and the management of M/s. Kay Corporation, Basin Bridge Power House (MES) Madras-12.
5	I.D. No. 87 of 1968	51/142/67-LRIII dated 5-4-1968.	Workmen and the management of Indian Bank Ltd, Indian Chamber Buildings, Madras-1.
6	I.D. No. 90 of 1968	23/77/68-LRIII dated 10-12-1968	Workmen and the management of the Punjab National Bank Ltd., Dare House Extension (Second Floor), Madras-1.
7	I.D. No. 91 of 1968	29/42/68-LRIII dated 21-11-1968.	Workmen and the management of M/s. National Transport Co., Madras.
8	..	23/115/68-LRIII dated 20-3-1969.	Workmen and the management of the Punjab National Bank Ltd.

[No. 24/7/69-LRIII]

New Delhi, the 16th May 1969

S.O. 1978.— Whereas an industrial dispute between the Life Insurance Corporation of India, Bombay and their workmen was withdrawn from the National Industrial Tribunal, Calcutta and transferred to the National Industrial Tribunal, New Delhi by the Order of the Government of India in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) No. S.C. 836 dated the 1st March, 1969;

And whereas the applications made under clause (b) of sub-section (2) of section 33 of the Industrial Disputes Act, 1947 (14 of 1947), specified in the Schedule annexed hereto and arising out of the said dispute are pending before the National Tribunal at Calcutta;

And whereas it is necessary that the National Industrial Tribunal, New Delhi which adjudicates the dispute should also dispose of the said applications;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 33B of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby withdraws the proceedings in relation to the said applications from the said Tribunal at Calcutta, transfers the same to the National Industrial Tribunal at New Delhi, and directs that the said Tribunal shall proceed with each of the said proceedings from the stage at which it is transferred and dispose of the same in accordance with law.

SCHEDULE

Sl. No.	Parties	No. of the Main case
1 of 1969	Life Insurance Corporation of India, Bombay <i>Vs.</i> Shri S. H. Bhagawade	NIT-3/68 Employers in relation to the Life Insurance Corporation of India and their workmen.
2 of 1969	Life Insurance Corporation of India, Madras <i>Vs.</i> Shri Vittal Rao	-do-
4 of 1969	Life Insurance Corporation of India, Calcutta <i>Vs.</i> Shri Sukumar Ranjan Das Gupta	-do-
5 of 1969	Life Insurance Corporation of India, Calcutta <i>Vs.</i> Shri Anath Nath Chatterjee	-do-
6 of 1969	Life Insurance Corporation of India, Calcutta <i>Vs.</i> Shri Benoy Bhusan Mukherjee	-do-
7 of 1969	Life Insurance Corporation of India, Calcutta <i>Vs.</i> Shri Nishit Roy	-do-
8 of 1969	Life Insurance Corporation of India, Calcutta <i>Vs.</i> Shri Khirode Ch. Kar	-do-
9 of 1969	Life Insurance Corporation of India, Madras <i>Vs.</i> Shri A. Ananda Bangera	-do-
10 of 1969	Life Insurance Corporation of India, Bombay <i>Vs.</i> Shri J. C. Shah	-do-

[No. 25/24/68-LRIII.]

S. S. SAHASRANAMAN, Under Secy.

(Department of Labour and Employment)

New Delhi, the 13th May 1969

S.O. 1979—In pursuance of section 17 of the Industrial Disputes Act, 1947(14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Calcutta, in the industrial dispute between the employers in relation to the Chora Colliery of Messrs Chora Coal Company Limited, Post Office Chora, District Burdwan and their workmen, which was received by the Central Government on the 6th May, 1969.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, CALCUTTA

REFERENCE No. 4 OF 1969

PARTIES:

Employers in relation to the Chora Colliery of Messrs Chora Coal Company Limited

AND

Their workmen

PRESENT:

Shri B. N. Banerjee—Presiding Officer

APPEARANCES.

On behalf of Employers.—Shri S. K. Bhattacharjee, Law Officer, (Withdraws later on). Shri N. Singh, Personnel Officer.

On behalf of Workmen.—Shri Mauhu Sudan Ray, General Secretary, Asansol Coal Field Workers' Union.

STATE: West Bengal.

INDUSTRY: Coal Mines

AWARD

By order No. 6/105/68-LRII, dated December 17, 1968, the Government of India, in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment), referred an industrial dispute between the employers in relation to the Chora Colliery of Messrs Chora Coal Company Limited and their workmen, to this tribunal, for adjudication, namely:

“Whether the management of Chora Colliery of Messrs Chora Coal Company Limited, Post Office Chora, District Burdwan, was justified in stopping from work Sarvashri Munshi Yado and Munilal Nonia, Trammers, with effect from the 25th July, 1968? If not, to what relief are these workmen entitled?”

2 The attitude exhibited by the management, in this reference, has been to say the least, very unsatisfactory. The workman filed their written statement on February 10, 1969. The management did not file their written statement within the time allowed. The asked for extension of time to file written statement, on February 25, 1969, on the following ground:

“That your petitioners beg to submit that a Stay-in strike has been resorted to by the workmen employed in the colliery on and from 17th February, 1969 and this has paralysed all the normal work in the colliery and in the circumstances your petitioners have not been able to submit their written statement in time and they need at least one month's time for submitting the same after return of normal situation in the colliery.”

On that application, this tribunal extended time till March 25, 1969, with notice to the management that no further time would be allowed. Only thereafter, the management filed the written statement. The management did not appear before the tribunal on the date, which had been fixed for settling the date of hearing. The date of peremptory hearing had to be fixed in their absence as on April 26, 1969 (that is to say to-day) and information of the date had to be sent to the management by registered post.

3. On April 7, 1969, the Asansol Coal Field Workers Union, which espoused the cause of the workmen, filed an application praying for production of the-

following documents, which were said to be in possession of the management, namely:

- "1. Copy of the Certified Standing Order/Model Standing Order followed by the Colliery.
2. Form 'B' Register for the years 1967 and 1968.
3. Wage Register in Form for 1967
4. Form 'E' Register for the years 1967 and 1968.
5. Form 'X' Register under Coal Mines Bonus Scheme for the years 1967 and 1968.
6. Appointment register or a ticket whichever may be in practice in the colliery for the years 1967 and 1968".

This tribunal allowed that application and notice was sent to the management to produce the documents on the date fixed for hearing.

4. At the hearing to-day, the management was represented by Mr. S. K. Bhattacharjee, Law Officer, and Mr. N. Singh, Personnel Officer of the management. Mr. Bhattacharjee moved two applications for adjournment of the hearing. The first application contained an excuse for non-production of documents called for from the management and asked for a month's time to produce the documents on the following plea :

- "2. That because of the prolonged stay in strike underground at your petitioner's Chora Colliery Pit No. 7 and 9 and subsequent situation that arose i.e. intimidation, threat, wave of terror, risk to lives and properties, incitement for violence obstruction to staff from discharging their duties in the Colliery and continuance of the same, the papers, documents, register etc. required to be produced have been misplaced and untraced.
3. That because of the aforesaid situation your petitioner prays for one month's time to trace out and file the documents if available."

The second application was a second string to the bow, namely to the prayer for adjournment, and asked for a month's time on the following pretext:—

- "2. That your petitioners beg to submit that your petitioners have not been able to collect and file in this Tribunal, the documents which were essentially required for proving your petitioner's case.
3. That if the case is heard in the absence of these documents your petitioner will suffer serious loss and injury."

This tribunal did not find any justification behind the prayers for adjournment. The plea that records are not available is a hackneyed, stale and oft repeated plea of the management. It appears from the copy of the report on failure of conciliation, dated October 23, 1968 (a copy whereof was forwarded to this tribunal by the Central Government):

"Both the parties attended the discussion on 8th September, 1968 but the representative of the management expressed their inability to produce the records stating that as the notice fixing the date for discussion was received by them on 6th September, 1968 they could not collect the papers. On the request of the representative of the management for an adjournment to enable them to produce the records the discussion was adjourned to 11th September, 1968 with the consent of the union representative."

The same plea was repeated before this tribunal at the time of praying for extension of time to file written statement and I have set out the relevant paragraph from that application hereinbefore. The same plea is again being exploited now for the purpose of obtaining an adjournment. The strike is now a past history, as I have now recorded both by the Personnel Officer of the management and the General Secretary of the Asansol Coal Field Workers Union. They both stated before me in writing:

"We beg most respectfully to state that there is no strike in the Chora Colliery at present. The colliery is running from April 15, 1969, in two shifts."

The non-availability of record on the ground of strike is thus unworthy of being accepted.

5 As soon as I rejected the application for adjournment, Mr S K Bhattacharjee Law Officer, stated that he would better retire from the case. Mr N Singh Personnel Officer, however, continued to represent the case on behalf of the management and therefore the retirement of Mr Bhattacharjee was a matter of little consequence to the reference made before this Tribunal.

6 Because of the rejection of the application for adjournment the management must find itself in a difficult position. Under Rule 17 in Part III of Industrial Disputes (Central) Rule, this tribunal has power to issue summons for production of documents. Under Rule 21 of the same Rules this tribunal has the same powers as are vested in Civil Courts under the Code of Civil Procedure, 1908 in respect of *inter alia* discovery and inspection. Now for non-compliance of an order for discovery there is a penalty provided for in Order 11 Rule 21 of Civil Procedure Code, namely:

"Where any party fails to comply with any order or answer interrogatories or for discovery or inspection of documents, he shall if plaintiff be liable to have the suit dismissed for want of prosecution and if a defendant to have the defence if any struck out and be placed in the same position as if he had not defended and the party demanding or seeking discovery or inspection may apply to the Court for an order to that effect and an order may be made accordingly."

No application on behalf of the workmen was, however, made for imposition of a penal order upon the management for non-compliance with the notice to produce documents. I do not therefore propose to go to that length in the instant matter. Nevertheless, for want of documents the management is left in the same position that is to say they are unable to move the case pleaded in the written statement. Documents which the workmen asked for were the identical documents on which the management might have built up the case as pleaded by them.

7 On behalf of the workmen, one of the person who had been stopped from work namely Munlal Noma gave evidence before the tribunal. The other person who had been stopped from work namely Munshi Yado did not give evidence. On behalf of the management nobody was examined. No documentary evidence was tendered before this tribunal either on behalf of the workmen or on behalf of the management. Thus I am compelled to proceed on the evidence given by one of the concerned workmen, however interested the same may be.

8 I have no doubt certain outstanding facts before me. That the two workmen were working in the colliery concerned admit of no doubt. The plea of the management as pleaded in paragraph 1 of the written statement is that they were appointed to work as substitute and Badli trimmers in the colliery on 5th June 1968 and they worked upto 24th July 1968 and their services were terminated when the permanent incumbent resumed their work. Does not, however, stand proved by any evidence oral or documentary. In paragraph 2 of the written statement filed by the employers it was pleaded:

"It may be mentioned that as per Model Standing Orders which are followed in the absence of any other Standing Order in the Employers Colliery, no notice is required to be given for terminating such Badli and substitute employments and no notice in the cases of those workmen were given."

There is nothing to show that the Model Standing Orders were at all accepted or adopted by the colliery concerned and even if it be presumed that the Model Standing Orders applied then in the absence of proof that the concerned workmen were badli trimmers there would be no justification in stopping them from working in the manner done.

9 This being my view of the matter I have to hold that the management of the Chorra Colliery was not justified in stopping from work Munshi Yado and Munlal Noma Trimmer with effect from 25th July 1968. They are therefore entitled to join later on in their jobs with immediate effect. Since there is no evidence that the workmen remained unemployed during the entire period of their enforced idleness I do not direct payment of full back wages to them but merely direct payment of half their wages.

This is my award.

(Sd) B N BANERJI
Presiding Officer

Dated April 28 1969

[No. 6/105/68 LRII]

New Delhi, the 14th May 1969

S.O. 1980.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Jabalpur, in the industrial dispute between the employers in relation to the management of Ballarpur, Sasti and Ghugus Collieries, Post Office Ballarpur, District Chanda and their workmen, which was received by the Central Government on the 7th May, 1969.

CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

Dated April 29, 1969

PRESENT:

Shri G. C. Agarwala, Presiding Officer.

CASE REF. No. CGIT/LC(R)(53) OF 1968

PARTIES:

Employers in relation to the management of M/s Ballarpur Collieries Company, Bissessor House, Temple Road, Nagpur (M.S.)

Versus

Their workmen represented through the Chanda Colliery Mazdoor Sangh P.O. Ballarpur, Tahsil & Distt. Chanda (M.S.)

APPEARANCES:

For employers—Shri K. Kumar, Officer of the concern.

For workmen—Shri K. Krishna Rao, President, Chanda Colliery Mazdoor Sangh.

INDUSTRY: Coal Mine

DISTRICT: Chanda (M.S.)

AWARD

By Notification No. 5/42/68-LRII dated 29th October 1968, the Ministry of Labour, Employment & Rehabilitation (Department of Labour & Employment), Government of India, referred the following matter of dispute as stated in the schedule to the order of reference to this Tribunal, for adjudication:—

Matter of Dispute

Whether the managements of Ballarpur Colliery, Post Office Ballarpur; Sasti Colliery, Post Office Ballarpur and Ghugus Colliery, Post Office Manikpur of Messrs Ballarpur Collieries Company, Bissessor House, Temple Road, Nagpur are justified in refusing to pay Grade I scale of wages of clerical staff as notified under Section 'D' of Chapter VIII of Volume I of the Report of the Central Wage Board for the Coal Mining Industry to Shri K. N. Wankhede of Ballarpur Colliery; Shri V. N. Bhattarkar of Sasti Colliery and Sarvashri N. B. Joshi and V. R. Kanade of Ghugus Colliery? If not, to what relief are the workmen entitled?

2. After pleadings were filed certain issues were framed on 20th February 1969 which need not be reproduced. It may be mentioned that one of the pleas raised by the management was that the dispute was not an industrial dispute inasmuch as the four concerned workers were not members of the Union, Chanda Colliery Mazdoor Sangh, and the said Union was not competent to raise the dispute. It was further alleged that the Union had no representative capacity inasmuch as in Ballarpur and Ghugus Colliery it has practically no membership. It is only in Sasti Colliery that the Union has a few workers as its members. It was further stated that the Union was not a registered one. In view of this plea raised by the management of the three collieries, the Union was directed to produce Membership Register, Counterfoil Receipts and Minutes Book. When the case was taken up for hearing on this date, the President of the Union, Sri K. Krishna Rao, admitted that none of the four concerned workmen were members of his union at any time. It was further admitted by him that in Ballarpur and Ghugus Collieries the Union has only about 30 members out of 1200 to 1500 workers in these collieries. It is only in Sasti Colliery that the Union has about 350 workers as its members. He has, however, not brought the Membership Register nor the Counterfoils. In view of the admission made by the President it has to be held that neither the Union has a representative capacity nor the dispute is an industrial one inasmuch as none of the

four concerned workmen were members of the Union and the dispute is of individual nature. This Tribunal, therefore, has no jurisdiction to adjudicate.

(Sd.) G. C. AGARWALA,
Presiding Officer
29-4-1969

[No 5/42/63-LRIL.]

S.O. 1981.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Calcutta, in the industrial dispute between the employers in relation to the management of Pure Sitalpur Colliery of Messrs Pure Sitalpur Coal Concern Limited, Post Office Ukhra, District Burdwan, and their workmen, which was received by the Central Government on the 7th May, 1969.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, CALCUTTA

REFERENCE NO. 7 OF 1969

PARTIES:

Employers in relation to the management of Pure Sitalpur Colliery of Messrs Pure Sitalpur Coal Concern Limited.

AND

Their workmen

PRESENT:

Shri B. N. Banerjee, Presiding Officer

APPEARANCES:

On behalf of Employers—Absent.

On behalf of Workmen—Shri Madhusudan Ray, General Secretary, Asansol Coal Field Worker's Union.

STATE: West Bengal.

INDUSTRY: Coal Mines.

AWARD

By Order No. 1/62/63-LRIL, dated January 13, 1969, the Government of India, in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) referred the following industrial dispute between the employers in relation to the management of Pure Sitalpur Colliery of Messrs Pure Sitalpur Coal Concern Limited and their workmen, to this tribunal, for adjudication, namely:

“Whether the management of Pure Sitalpur Colliery of Messrs Pure Sitalpur Coal Concern Limited was justified in not implementing the Arbitration award dated the 6th May, 1967, given by Shri A. K. Mitra, the then Assistant Labour Commissioner (Central) and the award dated the 11th March, 1968 given by Shri N. K. Chaddha, Regional Labour Commissioner (Central), Calcutta? If not, to what relief are the workmen entitled?”

2 The Asansol Coal Field Worker's Union, which espoused the case of the workmen of Pure Sitalpur Colliery, filed a written statement. In paragraph 1 of the said written statement it was stated that the management of the Pure Sitalpur Colliery kept their mines closed for three weeks from August 2, 1966 and this gave rise to an industrial dispute, the workers claiming wages for the period of arbitrary closure. In paragraph 2 of the said written statement it was stated:

“That in course of the conciliation proceeding the Union sponsoring the present dispute and the Management agreed to refer the dispute for settlement by arbitration as enjoined under the Code of Discipline and a mutual agreement they appointed Shri A. K. Mitra, the then Assistant Labour Commissioner (Central) Asansol, as their Arbitrator for the same.”

In paragraphs 3 and 4 of the written statement it was further stated that Sri A. K. Mitra gave an award, on May 6, 1967, directing payment of a sum of Rs. 25 each, to all the workmen, by way of relief for the period of closure of the mines by the management, within one month from the date of receipt of the award. In paragraph 5 of the written statement, it was alleged that the management did not implement the said award and offered lame excuses for not doing so. Then again, in paragraph 7 of the written statement, it was stated that the management again closed the colliery from September 22, 1966, to October 15, 1966, and a second industrial dispute arose over payment of wages for the period of the second arbitrary closure. This time, the dispute was referred to the arbitration of Mr. N. K. Chaddha, Regional Labour Commissioner (Central), Calcutta, under the Code of Discipline. In paragraph 8 of the written statement it was stated:

"That the said Arbitrator Shri N. K. Chaddha after holding arbitration gave his Award on 11th March, 1968 directing the Management of Pure Sitalpur Colliery to pay full wages to all their workmen for the period of the aforesaid stoppage from 22nd September 1966 to 15th October 1966."

The written statement alleged that the second award was also not implemented by the management. In the background of these happenings, claim was made on behalf of the workmen, for the implementation of the two awards.

3. The management also filed a written statement. In respect of the closure of the colliery in August, 1966, it was alleged in paragraphs 2, 3 and 4 of the written statement:

"2. That with reference to the paragraph (1) of the Workmen's statement, it is submitted that on account of the continued reign of terror and lawlessness created by the workmen of the Colliery, at the instigation of the Asansol Coalfield Workers' Union, the manager of the Colliery, by a telegram sent to the Regional Inspector of Mines, Sitarampur, submitted his resignation.

3. That it is submitted that on account of the absence of the manager, it was not possible to carry on the mining operations in the colliery.

4. That the Regional Inspector of Mines, also by his letter dated 4th August 1966 advised the Agent of the Colliery not to employ any person in the mine till a qualified manager was appointed. With great difficulty arrangement for a manager could be found only after three weeks and the mine started operating immediately thereafter."

The management submitted, in the aforesaid circumstances, that the workmen were themselves responsible for the closure of the mine and the charge of arbitrary closure, as levelled against them, was disputed. In respect of the award made by Mr. A. K. Mitra it was stated in paragraph 11 of the written statement:

"That it is submitted that the payment at the rate of Rs. 25 to the workmen, as given by Shri A. K. Mitra the learned arbitrator, who were themselves responsible for the closure of the Colliery, if implemented, would amount to payment of premium on lawlessness."

In regard to the second closure of the mines, from September 22 to October 15, 1966 it was alleged that the stoppage of the work was due on account of strike by the workmen, which was an illegal strike. The award made by Mr. Chaddha was condemned on the two-fold ground as stated in paragraphs 16 and 21 of the written statement, namely:

"(16) That Mr. N. K. Chaddha the Arbitrator, gave his decision without hearing the management.

(21) That Mr. Chaddha, the Arbitrator directed payment of full wages to all the workmen for the period from 22nd September 1966 to 15th October 1966 without any basis, whatsoever."

It is in the background of these pleadings, that I have to decide the present reference.

4. It is not anybody's case that the awards made either by Mr. A. K. Mitra or by Mr. N. K. Chaddha were under Section 10A of the Industrial Disputes Act, 1947. The common case is that the matters were referred to the arbitration of the aforesaid two officers under the provisions of the Code of Discipline. Now, the Code, known as the *Code of Discipline In Industry*, is a non-statutory Code which applies both to the public and private sectors, has been accepted voluntarily by all the central organisations of employers and worker and has been in operation

since the middle of the year 1958. The Code lays down specific obligations for the management and the workers, with the object of promoting cooperation between them at all levels, avoiding stoppages as well as litigation, securing settlement of disputes and grievances by mutual negotiations, conciliation and voluntary arbitration and facilitating the free growth of trade unions. The Code of Discipline opens with the following words:

"I. To Maintain Discipline in Industry (both in public and private sectors) there has to be (i) a just recognition by employers and workers of the rights and responsibilities of either party, as defined by the laws and agreements (including bipartite and tripartite agreements arrived at all levels from time to time) and (ii) a proper and willing discharge by either party of its obligations consequent on such recognition.

The Central and State Governments, on their part, will arrange to examine and set right any shortcomings in the machinery they constitute for the administration of labour laws."

The Code further provides:

To ensure better discipline in industry

II. Management and Union(s) Agree—

- (i) that no unilateral action should be taken in connection with any industrial matter and that disputes should be settled at appropriate level;
- (ii) that the existing machinery for settlement of disputes should be utilised with the utmost expedition;
- (iii) that there should be no strike or lock-out without notice;
- (iv) that affirming their faith in democratic principles, they bind themselves to settle all future differences, disputes and grievances by mutual negotiation, conciliation and voluntary arbitration;
- (v) **
- (vi) **
- (vii) **
- (viii) **
- (ix) **
- (x) **

Now, if the awards had been passed by arbitrators appointed under the provisions of the Code of Discipline, as admittedly done in this reference, they ought to be accepted, unless of course, the awards were vitiated by fundamental infirmities or bias.

5. In the instant case, I did not have any aid or cooperation from the management. At the peremptory hearing of the reference, which was fixed today, somebody on behalf of the management, who did not disclose his identity and did not file any powers or letter of authority filed an application for adjournment on the following grounds:

- "That the petitioner has engaged the learned Counsel Sri S. S. Mukerjee who is well conversant with the facts of the above case.
- That the learned counsel has suddenly fallen ill and as such he would not be able to appear before the Tribunal today.
- That it is necessary for the ends of justice, that the hearing may be adjourned."

No copy of the application was served on the other side. When I showed the application to Mr. Madhu Sudan Ray, who appeared for the workmen, he objected to the appearance of lawyer. Thus the engagement of a lawyer or his inability to appear becomes a matter of little consequence, because, under Sec. 36 of the Industrial Disputes Act, representation of a party by a legal practitioner is dependent upon the consent of the other party. Since the ground for adjournment as pleaded did not appeal to me, I rejected the application. Thereupon, the management became conspicuous by absence.

6. The management, it is ought to be noted, also absented themselves before Mr. Chaddha, in the arbitration proceedings before him, as appears from his award (Ext. 2). I did not consider it fit and proper to extend the indulgence of adjournment, to a party habitually guilty of absenteeism.

7. On behalf of workmen Arun Kumar Bhattacharjee, Joint General Secretary of the Asansol Coal Field Workers Union, deposed. He proved two awards, namely by Mr. A. K. Mitra and by Mr. N. K. Chaddha, appointed as arbitrators under the Code of Discipline. I need not consider the grievances made against the award of Mr. A. K. Mitra, by the management, in their written statement, because those grievances were not proved before me. Nevertheless, I find from the award itself, that Mr. Mitra considered the main grievances made by the management, which was also repeated before me, namely, that the sole responsibility for the first closure was not on the management alone and in consideration of that fact he reduced the quantum of payment to the workmen to a flat rate of Rs. 25 each. So far as Mr. Chaddha's award is concerned, the grievance made by the management that the award was *ex-parte* made, without hearing the management, does not appear to be justified because the management exasperated Mr. Chaddha by constant absence and at last he was compelled to proceed *ex-parte*.

8. I do not find any justifiable ground why the first arbitration award, dated 6th May, 1967, given by Mr. A. K. Mitra, Assistant Labour Commissioner (Central) and the other arbitration award, dated 11th March, 1968, given by Mr. N. K. Chaddha, Regional Labour Commissioner (Central), Calcutta, should not be implemented by the management of Pure Sitalpur Colliery of Messrs Pure Sitalpur Coal Concern Limited. Both the parties voluntarily submitted to the arbitration. There is no fundamental infirmity in the awards, according to my finding. The arbitrators were also not alleged to be biased. In the absence of any justification, the management of Pure Sitalpur Colliery of Messrs Pure Sitalpur Coal Concern Limited are bound by the awards and are liable to pay to the workmen all the reliefs under the two awards.

This is my award.

Sd./- B. N. BANERJEE,

Presiding Officer.

[No. 1/62/68-LRII.]

Dated, April 30, 1969.

S.O. 1982.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Andhra Pradesh, Hyderabad, in the matter of an application under Section 33A of the said Act, from Shri K. Veera Sekhar, Workman, Singareni Collieries Company Limited, Kothagudem, which was received by the Central Government on the 6th May, 1969.

BEFORE THE INDUSTRIAL TRIBUNAL (CENTRAL) AT HYDERABAD

PRESENT:

Sri Mohammad Najmuddin, M.A., B.L., Chairman, Industrial Tribunal, Andhra Pradesh, Hyderabad.

MISCELLANEOUS PETITION No. 222 of 1968

IN

INDUSTRIAL DISPUTE No. 30 of 1967

BETWEEN

K. Veera Sekhar, Workman, Singareni Collieries Co. Ltd.—*Complainant*.

AND

The Management, Singareni Collieries Co. Ltd., Kothagudem.—*Respondent*.

APPEARANCES:

Sri K. Satyanarayana Advocate—for the *Complainant*.

Messrs. K. Srinivasa Murthy, Hony. Secretary, Federation of Andhra Pradesh Chambers of Commerce and Industry, Hyderabad, and M. V. Ramakrishna Rao, Asst. Personnel Officer, Singareni Collieries Co. Ltd., Kothagudem,—for the *respondent*.

AWARD

This application is under Section 33A of the Industrial Disputes Act. The applicant, K. Veera Sekhar, was Overman Grade IV in the employ of the respondent Collieries. He was, to start with, taken as apprentice Deputy 'A' Grade at

Ramagundam by proceedings dated 8th December, 1962. This document is filed along with the application. The period of apprenticeship is specified therein as three years. It is provided therein that after completion of the said period of training as apprentice "he will be confirmed as Overman Grade IV on a commencing salary of Rs. 75/- per month in the Grade of Rs. 75-5-110-E.B.-6-134 plus the usual dearness allowance, subject to availability of vacancies". The above was subject to the workman passing the necessary tests meanwhile. It is stated in the application that the applicant had passed the tests which he was required to pass, viz., Shot Firing's test, Sirdar's test and Overman's test. Next we have the office order of the Management dated 28th December, 1966 by which the applicant was "promoted as Overman Grade IV" and was assigned to work at Godavari Khani No. 3 Incline, Ramagundam Division, on a commencing salary of Rs. 75/- in the above said grade. This document is filed with the application. It is stated in the document that Veera Sekhar would be on probation for a period of six months and that his confirmation in the said post would depend upon satisfactory reports regarding his work. It is pointed out in the application that the applicant should have been confirmed on the expiry of the three year period of apprenticeship instead of being placed on probation. This is said to be violation of the terms of the contract of employment as set out in the earlier document. It is further pointed out that according to the Standing Orders of the Company the period of probation prescribed is three months. In that the order of 28th December states that the period of probation is six months, the same is said to be a further instance of violation of the terms of employment. Next we have a third document which is filed with the application. It is the proceedings of the Management dated 4th July, 1967 by which Veera Sekhar was informed that his work has been unsatisfactory and that therefore it was not possible to recommend his name for confirmation as yet. By this document his period of probation was extended by six months more. He was warned that if he does not show improvement he would not at all be recommended for confirmation. This document dated 4th July, 1967 is referred to in the application. It is stated therein that it was on account of the malice which the Under Manager, K. Lakshminarayana, bore towards him that his period of probation was extended by six months by order dated 4th July, 1967. There was a further extension of probation by three months by order dated 23rd December, 1967. That document also is filed with the application. It is stated in that document that his work as well as conduct and behaviour had been reported as being most unsatisfactory. It is stated in the application that there was a further extension of probation by three months by letter of the Company dated 26th April, 1968. That document is not filed. We have the last document dated 24th June, 1968 which is the proceedings of the Management by which the services of Veera Sekhar were terminated for reason of unsatisfactory work with effect from 27th June, 1968. The order dated 26th April, 1968 is referred to in this document by which he was informed that he would be paid one month's wage in lieu of notice. The further case of the applicant is that this periodic extension of probation lacks bonafides and that it amounted to victimisation. It is prayed that the Management be directed to take back the applicant into employment with retrospective effect with back wages and attendant benefits.

2. The Management filed counter. It is stated in it that there was no violation of the provisions of Section 33 of the I. D. Act so as to provide cause of action to the applicant to complain under section 33A of the said Act. This application is made in I.D. No. 30/67. The date of the reference in that dispute is 30th October, 1967. It is stated in the counter that the alleged violations of the provisions of section 33 were anterior to the date of the reference under mention and therefore it was not open to the applicant to complain about those violations under Section 33A as any violations subsequent to the reference could alone be complained of. It is pointed out that the termination of the services of the applicant by order dated 24th June, 1968 was in continuation of the earlier orders by which he was placed on probation and by which the period of probation was extended from time to time. It is stated that the applicant was not entitled as of right to be made permanent and that he could not be treated as a permanent employee. It is also pointed out that as the order of termination of services was in respect of a probationer, there was no violation of the provisions of section 33 and that therefore there was no need for the Management to make an application under the proviso to sub-section 2(b) of section 33 of the I.D. Act for approval of the action taken. The termination of the services of Veera Sekhar is justified in the counter on the ground that his work and conduct has been wholly unsatisfactory during the period of probation and that despite chances given to him to show improvement, he did not take advantage of the same. It is denied that there was any question of malafides or of victimisation.

3. I heard arguments of Mr. K. Satyanarayana for the applicant and of Mr.

K. Srinivasamurthy for the respondent Collieries. I perused the documents filed along with the application. I have earlier referred to those documents.

4. By order dated 24th June, 1968 the Management had terminated the services of Veera Sekhar with effect from 27th June. The reason therefor as stated in that document is that his work has not been satisfactory. That document is the fifth of the five documents filed along with the application. By the first document which is dated 8th December, 1962 he was taken as an apprentice Deputy 'A' on a fixed stipend of Rs. 70/- per month for the first two years and Rs. 75/- in the third year. By the second document which is dated 28th December, 1966 the applicant was placed on probation for a period of six months as Overman Grade IV. Thereafter, with periodic extensions of probation he continued to be on probation till the order dated 24th June, 1968 was passed by which his services were terminated. When this last order was passed, I. D. No. 30/67 was pending here, the parties to it being the Management of the Singareni Collieries on the one side and its employees on the other. The issue in it was, among others, for a revision of fitments. Veera Sekhar was thus concerned with that dispute. Section 32A of the I.D. Act enacts that where an employer contravenes the provisions of section 33 during the pendency of a reference, an employee aggrieved by such contravention may make a complaint before the Labour Court or the Tribunal which is seized of the dispute, and that the said Forum shall adjudicate upon the complaint as if it were a dispute referred to or pending before it. The order dated 24th June, 1968 by which Veera Sekhar's services were terminated was passed during the pendency of the dispute in I.D. No. 30/67. That dispute was referred by the Government of India by its G.O. dated 30th October, 1967. The date of that reference is of material importance for the purpose of decision in the application under consideration. Management did not make an application under the proviso to sub-section 2(b) of section 33 for approval of the section taken, viz., termination of the services of Veera Sekhar. If under Law it was obligatory to comply with the directive in the aforesaid proviso, then in that the Management did not make an application as directed by the said proviso, such failure on the part of the Management would amount to violation of the provisions of section 33. If, however, there was no such obligation, then there was no such violation. Section 33 places an embargo upon an employer with regard to altering conditions of service to the detriment of the workman during the pendency of a dispute, such conditions of service being those applicable to the workman immediately before the commencement of the parent proceeding. If an employer commits breach of this restriction, that would be violative of the provisions of section 33. It is such violation of one kind or the other that gives cause of action to a worker to complain under section 33A, and the Tribunal gets jurisdiction to "determine" the justification or otherwise of the action taken by the employer.

5. The stand taken by the applicant is that the failure of the Management to confirm him as Overman in Grade IV as postulated in the first document dated 8th December, 1962 by which he was taken as apprentice for a period of three years, was in violation of the provisions of section 33 of the I. D. Act. There is said to be a further violation of the provisions of the said section in that the period of his probation was fixed at six months by the next document dated 28th December, 1966 whereas the Standing Orders of the Company prescribe three months probation. The further stand taken by the applicant is that the periodic extension of probation was mala fide and that the last order by which his services were terminated was similarly tainted. On the other hand the stand taken by the Management is that at the time the reference in I. D. No. 30/67 was made and as also during the subsequent period the position of the applicant was that of a probationer and that when his probation was terminated by the last document which is dated 24th June, 1968 for unsatisfactory work, it could not be said that there was violation of the provisions of section 33 because there was no alteration in the conditions of service applicable to the applicant immediately preceding the reference under mention. By the same token, it is pointed out that there was no obligation on the part of the Management to make an application to the Tribunal in compliance of the proviso to sub-section 2(b) of section 33 of the I. D. Act.

6. Mr. K. Satyanarayana for the applicant drew my attention to sub-clauses (i) and (ii) of Clause 2 F of the Standing Orders of the Company. Sub-clause (i) defines a permanent employee as one who is appointed for an unlimited period or who has satisfactorily completed a probationary period of three months continuous service in the same or another occupation of the Company's Establishment. Sub-clause (ii) defines a probationer as one who is provisionally employed to fill a permanent vacancy and has not completed three months service in that post. Reading these two clauses together, Mr. Satyanarayana pointed

out that in any event the period of probation cannot extend beyond three months. Apart from the question whether it was right or wrong on the part of the Management to have stated Veera Sekhar as a probationer Overman in Grade IV as per the second document dated 28th December, 1966 while the earlier document of appointment did not indicate that after the expiry of the period of apprenticeship he would be started on probation but had actually said that he would be confirmed as Overman in Grade IV on the expiry of the period of apprenticeship, Mr. Satynarayana contended that the period of probation could not be for more than three months and that thereafter he could not be considered to be a probationer. I do not think that such a rigid view of the period of probation would be justified. The fact that a person is engaged in a particular post on probation implies that the period of probation could be extended if the work of that employee was found not satisfactory or up to the mark. In fact we have in sub-clause (1) of Clause 2F of the Standing Orders of the Collieries that the completion of the three month period of probation should be "satisfactorily" accomplished. Any dissertation of the point under consideration would, in the instant case, be of mere academic interest because Veera Sekhar being started on probation and its subsequent extension on one occasion was prior to 30th October, 1967, that being the date of the reference in I. D. No. 30 of 1967.

7. I will next consider the question whether there was any malafides on the part of the Management in the periodic extension of probation in respect of Veera Sekhar. Malafides is a question of fact. Generally it is a matter of inference from the material placed before the Tribunal. We have the pleadings in the case. The applicant pleaded that it was a case of malafides and victimisation. The Management pleaded that it was not a case of malafides or victimisation. Next we have to see what is the material placed by the applicant from which to infer that it was a case of malafides or victimisation. He placed five documents before the Tribunal. The first document which is dated 8th December, 1962 is the order appointing him as apprentice for a period of three years. The second document which is dated 28th December, 1966 is the order by the Management appointing him as Overman in Grade IV on probation for a period of six months. It is stated in paragraph 2 of this document that his confirmation in the said post and the grant of annual increments were conditional upon the applicant earning satisfactory reports from those who watch and supervise his work. By that document he was first posted to Godavari Khani No. 3 Incline of Ramagundam Division I. By the third document which is dated 4th July, 1967 Veera Sekhar was informed that the reports are that his work was not satisfactory, that he was not able to manage his shift and that because of this he had been transferred from No. III Incline to No. VI Incline. It is stated that even the reports from No. VI Incline are that his work was not satisfactory. It is further stated that his conduct and behaviour towards his superiors and towards the workers under his charge had not been what it should be and that there were complaints regarding the same. Finally, it is stated in that document that for the above said reason it was not as yet possible to recommend his name for confirmation and that it was being recommended to the General Manager to extend his period of probation for another six months. That document ends with the hope that he would show improvement and with the warning that otherwise there was no chance of confirmation at all. In the fourth document which is dated 23rd December, 1967 it is again pointed out that the conduct and behaviour and the work of Veera Sekhar has been reported to be most unsatisfactory. By this document the period of probation was extended by three months. There was another proceeding dated 26th April, 1968 by which on the same grounds a further extension of three months of probation was made. That document is referred to in the application. Then we have the last document which is dated 24th June, 1968 by which the services of Veera Sekhar were terminated for unsatisfactory work. The earlier proceedings dated 26th April, 1968 are referred to in this last order in which it is stated that the same is in continuation of the proceedings dated 26th April, 1968. It is stated in the application that this extension of probation from time to time would speak for itself, viz., that it was a case of malafides and victimisation. I do not think so. If it was a case of malafides or victimisation the Management would not have repeatedly extended the period of probation of Veera Sekhar, and it could well have terminated his services at the end of the six month period of probation as prescribed in the second document dated 28th December, 1966. Apparently the Management did not give up hope of retaining this employee whom it had entertained as apprentice for about four years by paying him monthly stipend. I will presently point out now the period of apprenticeship came to be four years. Repeated opportunities being given by the various documents to enable Veera Sekhar to improve his work and conduct and behaviour cannot certainly be read together

as meaning that the Management was motivated by malafides or that it wanted to victimise him. The name of Lakshminaryana the Under Manager is mentioned in the application as having grudge against the applicant and as being responsible for his not being confirmed. The Under Manager is the one who would watch and supervise the work of Overmen, and he has to do his duty by reporting about their work and conduct. It would not suffice, as done in the application, to throw the blame upon one of the superiors. I am clear that it was not a case of malafides or of victimisation of Veera Sekhar.

8. As I indicated in the paragraph above it would appear that the period of apprenticeship had worked out to four years instead of three years as specified in the first document which is dated 8th December, 1962. It will be noted that it is stated therein that Veera Sekhar's confirmation as Overman in Grade IV at the end of the three year period of apprenticeship was contingent upon his passing certain tests. It is stated in the application that the applicant had completed passing of the tests by the month of July, 1966. It means that his passing all of the prescribed tests was not within the three year period of apprenticeship that was prescribed in the above document. Until he passed all the tests he would not be qualified for regular employment. That presumably explains why there was no follow up proceedings to the proceedings dated 8th December, 1962 until we have the next document dated 28th December, 1966 by which Veera Sekhar was started on probation for a period of six months.

9. Now remains to consider if the applicant has cause to complain under Section 33A, and if in consequence there is any relief to be granted to him. It is in this context that the date of reference in I. D. No. 30/67 is material. That dispute was referred by the Government of India by its G. O. dated 30th October, 1967. What has to be seen is what was the position of Veera Sekhar on that date and later at the time the order dated 24th June, 1968 was passed by which his services were terminated. He was a probationer on both those dates. By order dated 8th December, 1962 he was taken as apprentice for a period of three years. It is stated in that document that subject to his passing the required tests he would be confirmed as Overman Grade IV after completion of the three year period of apprenticeship. As I pointed out in the paragraph above, that period of apprenticeship came to be actually for four years. There is no indication in the above document that after completion of apprenticeship Veera Sekhar would be entertained as a probationer. On the other hand it is stated therein that he would be confirmed as Overman in Grade IV. It is not however necessary to go into the question whether the Management was justified in starting Veera Sekhar as a probationer for a period of six months by its order dated 28th December, 1966. That was prior to 30th October, 1967 which is the date of the reference in I. D. No. 30/67. That period of probation was extended by a further period of six months by order dated 4th July, 1967. This was also prior to 30th October, 1967. It is thus clear that the position of Veera Sekhar on the date of the reference was that of a probationer. There was a further extension of the period of probation by three months by order dated 23rd December, 1967 and again for a similar period by order dated 28th April, 1968. It was as a probationer that services of Veera Sekhar were terminated by order dated 28th June, 1968. I had elsewhere drawn attention to Section 33 of the I. D. Act restraining an employer from altering conditions of service to the detriment of a workman during the pendency of a dispute, such conditions of service being those applicable to the workman immediately before the commencement of the parent proceeding. What obtained in respect of Veera Sekhar immediately preceding 30th October, 1967, that being the date of the reference in I. D. No. 30/67, was that he was a probationer. That continued to be his position on the date his services were terminated by order dated 24th June, 1968. Stanley Mondex V. Goiovanola Binny Ltd., (1968, 11 LLJ, 470, Kerala High Court) was an instance of the services of a probationer being terminated. The Writ Petitioner in the citation was appointed as welder on probation for one year commencing from 27th May, 1964. By order dated 24th May, 1965 the employer terminated the employment with effect from 27th May. The reason given in the said order was that the employee's work was found to be unsatisfactory. At that time an industrial dispute was pending before the Industrial Tribunal at Calicut between the employer and the employees, and the employee in question was concerned with that dispute. Aggrieved by the order terminating his employment, the employee made an application to the Industrial Tribunal under section 33A of the I.D. Act. The learned Presiding Officer of the Tribunal dismissed that application. Thereupon the employee filed a Writ Petition in the High Court of Judicature, Kerala. It was urged for the petitioner before His Lordship Mr. Justice Balakrishna Eradi that the termination of the services of the Writ Petitioner on the eve of the expiry of the period of probation was violative of the

provision of section 33 of the I.D. Act in that the conditions of service applicable to him immediately before the commencement of the proceeding in the Industrial Tribunal at Calicut were altered to his detriment. His Lordship held that a probationer being discharged at the end of the period of probation would not, in law, amount to alteration of the conditions of service applicable to him and therefore such termination could not be said to be in violation of the provisions of section 33 of the I.D. Act. There is this difference between the facts in the citation and those in the instant case. In the citation there was no extension of the period of probation, and the employee was discharged from service on the last date of the probation of one year for which period he was taken as probationer. In the case on hand there were further extensions of the period of probation. This difference between the facts in the citation and those in the instant case would not, however, make any difference. The point to be noticed is that in the instant case the applicant was removed from employment by order dated 24th June, 1968 while he was still a probationer. Discharging a probationer during the period of probation would not, as held by His Lordship Mr. Justice Balakrishna Eradi, amount to altering conditions of service so as to say that there was violation of the provisions of section 33 of the I.D. Act. It will be noted that in the Kerala case the reason for discharging the employee was that his work was found to be unsatisfactory. There the employee was discharged from employment without extension of the period of probation. In the instant case the applicant was given repeated opportunities to improve his work and conduct, and in every order by which his period of probation was extended it was specifically pointed out that his work and conduct continued to be unsatisfactory. It would seem that the employer in the instant case was in a better position than the employer in the citation.

10. It is also urged on behalf of the applicant that the employer not filing an application under section 32(2)(b) of the I.D. Act for approval of the action taken, was also violation of the provisions of section 33. In the view I have taken, viz., that there was no alteration in the conditions of service applicable to the applicant immediately before the commencement of the present proceeding here and as for that reason there was no violation of the provisions of section 33, there was no need for the employer in this case to make an application for approval of the action taken in compliance of the proviso to sub-section 2(b) of section 33 of the I.D. Act.

11. Having regard to all the facts in the case, I am satisfied that there is no relief to be given to the applicant in this application under section 33A of the I.D. Act. This application is therefore rejected.

Award passed accordingly.

Given under my hand and the seal of the Tribunal this the 21st day of April, 1969.

(Sd.) M. NAJIMUDDIN,
Industrial Tribunal.
[No. 7/21/67-LRII.]

S.O. 1983.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal (No. 3), Dhanbad, in the industrial dispute between the employers in relation to the Jamadoba Colliery of Messrs. Tata Iron and Steel Company, Post Office Jealgora, District Dhanbad and their workmen, which was received by the Central Government on the 29th April, 1969.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 3) AT DHANBAD.

REFERENCE NO. 47 OF 1968

PRESENT:

Shri Sachindanand Sinha, M.A., M.L., Presiding Officer.

PARTIES:

Employers in relation to the Jamadoba Colliery of Messrs. Tata Iron and Steel Co. Ltd.

Versus
Their workmen.

APPEARANCES:

For employers—Shri L. H. Paivatiyar, Legal Assistant.

For workmen—Shri H. N. Singh, Vice-President, Koyala Mazdoor Panchayat

INDUSTRY: Coal.

STATE: Bihar.

Dhanbad, dated the 16th of April, 1969.

AWARD

1. The Central Government, being of opinion that an industrial dispute exists between the employers in relation to the Jamadoba Colliery of Messrs Tata Iron and Steel Company Limited, Post Office Jeaigora, District Dhanbad and their workmen by its Order No. 2/123/66 LR11, dated the 11th of October, 1966 referred to the Central Government Industrial Tribunal, Dhanbad under Section 16(1)(d) of the Industrial Disputes Act, 1947 for adjudication the dispute in respect of the matters specified in the schedule annexed thereto. The schedule is extracted below :

SCHEDULE

“Whether the dismissal of Shri Teja Singh, Heavy Tyndal, with effect from the 3rd May, 1966 and Shri Siddique, Sherwan Feeder Attendant, with effect from the 5th March, 1966 by the management of the Jamadoba Colliery of Messrs Tata Iron and Steel Company amounts to victimisation for trade union activities, and if so, to what relief are the workmen entitled?”.

2. The Central Government Industrial Tribunal, Dhanbad registered the reference as reference No. 139 of 1966 on its file. While it was pending there the Central Government, by its order No. 8/25/67-LR11, dated the 8th of May, 1967 transferred the dispute to the Central Government Industrial Tribunal No. 2, Dhanbad where it was registered as reference No. 176 of 1967. The Central Government by its subsequent order No. 8/71/68-LR11, dated the 13th of August, 1968, transferred the dispute to this Tribunal and here it has been renumbered as reference No. 47 of 1968.

3. On 5th February, 1968 the employers filed the written statement. Their case is that the bonus was calculated according to formula laid down in the Act and also in consultation with the recognised union, namely colliery Mazdoor Sangh. It was declared at 8.1/3rd per cent to be paid to the eligible workmen. On 29th September, 1965 when the Bonus was being paid to the workmen of the Jamadoba Colliery Sarvashree Teja Singh and Siddique, the concerned workmen were standing with about 100 persons near the garrage in front of the office of the Manager. At the instance of Sri Subran Singh, Heavy Tyndal Mazdoor, Washing plant the above named Sri Teja Singh and Sri Siddique threatened those who were accepting payment of the ordinance bonus. They also led a mob towards Shri S. N. Singh, the Legal Assistant in a violent attitude for assaulting him and also shouted abuses on him. They also led the mob towards the payment counter but were prevented from reaching there by the watchman and the police force. Sri Teja Singh and Sri Siddique thus incited a mob of about 100 persons to violence and to assault those who were drawing bonus and also the officers of the company with the result that all those who had come to take their bonus except 4 workmen who had already taken the same left the place without drawing their bonus out of fear.

4. For the above misconduct separate chargesheets dated 8th October, 1965 were issued to Sri Teja Singh and Sri Siddique to which they submitted replied denying the charges. The departmental enquiry was entrusted to the Senior Welfare Officer, Digwadih Colliery and accordingly a departmental enquiry was held by the Senior Welfare Officer Digwadih Colliery from 8th November, 1965 onwards in presence of Sri Teja Singh when he was given full chance and opportunity to cross examine the witnesses and defend himself. In that departmental enquiry the misconducts mentioned in the chargesheet dated 8th October, 1965 were satisfactorily established against Sri Teja Singh and he was therefore, dismissed by letter dated 3rd May, 1966.

5. The departmental enquiry into the charge sheet issued to Sri Siddique was fixed on 11th November, 1965, but as he along with two other chargesheeted workmen filed a joint application before the enquiry officer to postpone the enquiry as they would have to appear before the Sub-Divisional Officer on 11th November, 1965. The enquiry was accordingly adjourned to 18th November, 1965 and Sri

Siddique was informed accordingly. He however, failed to attend the enquiry fixed on 18th November, 1965 and one more chance was given to him to attend the enquiry which was fixed on 22nd November, 1965. As Sri Siddique did not attend the enquiry on this date also, it was held *ex-parte* in his absence. From the evidence recorded in the above departmental enquiry Sri Siddique was found guilty of the misconduct mentioned in the chargesheet and was therefore, dismissed with effect from 5th March, 1966. According to the management the departmental enquiries were fair, proper and conducted after observing the principles of natural justice. Therefore, the dismissal of the workmen was bonafide and based on proved misconduct, and therefore, the concerned workmen are not entitled to any relief.

6. The Vice-President Koyala Mazdoor Panchayat, filed the written statement on 29th October, 1966 on behalf of the workmen. According to the union the management had declared 8.1/3rd per cent profit sharing bonus to their workmen. The workmen in general protested about the quantum of the profit sharing bonus declared by the management and refused to accept the said profit sharing bonus. On 29th September, 1965 the management started distributing profit sharing bonus to the workmen. Sri S. N. Singh went to the workmen who were assembled outside the payment counter and persuaded them to lift their respective profit sharing bonus and assured those who were desirous to lift the bonus that nobody will disturb them.

7. According to the union the management picked up and chargesheeted only six workmen from a group of a large number of workmen standing there numbering about 150 and above. The management had chosen the aforesaid six persons just to terrorise the workers and submit them to accept bonus which was offered to them. At the enquiry stage though several people were examined on behalf of the management, nobody saw or named Shri Teja Singh or Shri Md. Siddique to have seen in the mob or having taken any prominent part in persuading the fellow workmen not to lift the profit sharing Bonus. Only two Welfare Officer namely Shri S. N. Singh and Shri Tarkeshwar Prasad volunteered to recognise six persons only in a mob of 150.

8. The case of Sri Teja Singh was that he was not present at the place of occurrence. He had gone to another place with transformer oil and that place where he had gone was about one mile away from the place of occurrence. His statement was corroborated by his defence witness namely Sri Ishar Ahmad who accompanied him to Bhowra Incline and one Sri Bhajan Singh, Heavy Tyndal Mazdoor who had seen Teja Singh going towards Bhowra Incline at about 3.00 p.m. The enquiring officer refused to accept their versions without any reason shown and took disciplinary action by discharging him from service with effect from 3rd May, 1966.

9. The case of Sri Siddique was that he was also not present at the place of occurrence. Nobody had named about the presence of Shri Siddique in the mob or had seen him committing any overt act at the time of the occurrence. He was a workman in the Coal Washing Plant. He had requested the manager to hold the enquiry near the place of work where he could produce his witnesses but his request was not accepted by the manager and the enquiry was conducted *ex-parte* in his absence and Sri Siddique was dismissed from service with effect from 5th March 1966. According to the union he was denied the opportunity to defend himself and therefore the dismissal was against natural justice. According to the union the management had chargesheeted and dismissed the concerned workmen in order to terrorise the workmen so that they may accept bonus which was offered to them.

10. On behalf of the management four witnesses were examined before me viz. 1. Sri N. K. Prasad (MW-1), 2. S. N. Singh, Dy. C.P.O. in Tata collieries (MW-2), 3. Tarkeshwar Prasad, Group Labour Officer (MW-3) and 4. M. M. Salvi, Manager, Jamadoba Washing Plant (MW-4) and Ext. M-1 to M-19 have been marked on behalf of the management. The union examined two witnesses viz. Sri Teja Singh and Sri Siddique, the concerned workmen and two items of documents were marked as Ext. W 1 and W-2.

11. The first point for consideration in this case is whether the dismissal of Sri Teja Singh Heavy Tyndal with effect from 3rd of May, 1966 amounts to victimisation for trade union activities. The second point for consideration is whether the dismissal of Sri Siddique, Sherwan Feeder Attendant with effect from 5th March, 1966 was amounted to victimisation for trade union activities?

12. In this case the concerned workmen Sri Teja Singh and Shri Siddique were dismissed following the enquiry made by the management. The principles which govern the power of an Industrial Tribunal to interfere with the decision of the employer following the enquiry made by him have been stated by the Supreme Court in a large number of cases and it has been ruled that the Tribunal can interfere if the conduct of the employer shows lack of bonafides or victimisation of an employee or unfair labour practice. The Tribunal may also interfere which there is a basic error on a point of fact or perverse finding. But it cannot substitute its own appraisal of the evidence for that of the officer conducting the domestic enquiry, though it may interfere where the principles of natural justice or fair play have not been followed or where the enquiry is so perverted in its procedure as to amount to no enquiry at all.

13. It is not within the competence of the Tribunal to enquire whether the particular witness has been rightly believed or not or whether the particular finding was supported by sufficient evidence. It cannot interfere with the conclusion of fact recorded in the domestic enquiry however, erroneous these conclusions may appear to the Tribunal. An industrial Tribunal would be justified in characterizing the finding recorded in the domestic enquiry as perverse only if it is shown that such a finding is not supported by any evidence, or is extremely opposed to the whole body of evidence adduced before it.

14. I will now take up the case of the concerned two workmen Sri Teja Singh and Siddique separately.

Case of Sri Teja Singh

15. Ext. M-1 is the chargesheet dated 8th/13th October, 1965. He was charged under clause 19(5) of the Standing Order for riotous and indecent behaviour on the allegation that on 29th September, 1965 at about 3-20 P.M. he was threatening to assault those who were accepting payment of their bonus by shouting that they would break the bones and ribs of those who accepted payment and also inciting the mob to assault Mr. S. N. Singh as he was instrumental in making the workers accept payment. Sri Teja Singh denied the charge *vide* Ext. M-2. According to him he was not present at the time of occurrence and that he had gone to Bhowra incline for getting transformer oil and he was not present near the manager's office at all. In his case the departmental enquiry was held by Sri N. K. Prasad, Senior Welfare Officer, Digwadih Colliery. In the departmental enquiry six witnesses were examined *viz.* S/Sri 1. S. N. Singh, L.A., 2. Tarkeshwar Prasad, Welfare Officer, 3. Brajmandan Singh Chaprasi, 4. Subedar Mishra, Habaldar, 5. Baba Singh, Driver, 6. Ramjanam Singh, Guard Commander. Out of the aforesaid witnesses Sri Brajmandan Singh, Sri Subedar Singh and Sri Baba Singh and Sri Ramjanam Singh neither named Teja Singh nor they spoke of any overt act committed by him. Out of the witnesses examined on behalf of the management he has been named by Sri Tarkeshwar Prasad as a person who was present in the mob. He does not speak regarding any overt act committed by him. Sri S. N. Singh had named him and has stated that he was shouting along with others. It is to be noted that Sri S. N. Singh was the complainant. Sri Teja Singh was working in the Jamadoba Colliery. The point is that he has not been identified by any of the workmen of Jamadoba Colliery or any of the person who had assembled there to lift the ordinance bonus. There is a large number of workmen working in the Jamadoba Colliery and it was not possible for the officials to know all the workmen of the colliery. Sri S. N. Singh has also admitted in his evidence that he does not recognise all the workmen of the Jamadoba Colliery and similarly Sri Tarkeshwar Prasad has also admitted in his evidence that he does not recognise all the persons of the Jamadoba Colliery. Therefore, there was no evidence before the Enquiring Officer of any workmen of Jamadoba Colliery or of any person who had gone there to lift the ordinance bonus, on the point that had identified Sri Teja Singh as one of the persons in the mob. During the enquiry stage Sri Teja Singh had examined two defence witnesses *viz.* Sri Ishar Ahmad, Fitter and he was then cross-examined by Sri S. N. Singh, Legal Assistant and the second witness was Sri Bhajan Singh. The enquiring officer had not discussed the evidence of these two witnesses in the enquiry report. He does not say that he disbelieves their statements. According to Sri Ishar Ahmad, Fitter Sri Teja Singh had gone to Bhowra incline at 2-45 P.M. and returned back to 3 pit by 3-20 P.M. and left 3 pit by 3-30 P.M. and reached Bhowra by 3-45 P.M. The enquiry officer has not discussed his evidence and has not stated that he disbelieved the statements of the two witnesses *viz.* Sri Ishar Ahmad and Sri Bhajan Singh.

16. There were several items of overt acts in the chargesheet which constitute misconduct for riotous and indecent behaviour. But there was no evidence before the enquiring officer on those several items of overt acts. There was no evidence of any workman that even Teja Singh was present at the time of the occurrence. The finding of the enquiring officer against Sri Teja Singh was opposed to the whole body of the evidence adduced before it.

17. According to union the management has chosen Sri Teja Singh to terrorise the workers and submit them to accept bonus as offered by the management. It was therefore, argued before me that the action of the management in charge-sheeting and dismissing Sri Teja Singh was coercive and amounted to unfair Labour practice. According to the union Sri Teja Singh was innocent but he was punished because he has displeased the management in not lifting the bonus as declared by the management. The evidence adduced in the case goes to show that the dismissal of Sri Teja Singh was on account of victimisation for his trade union activities.

Case of Siddique

Ext. M-6 is the chargesheet dated 8th October, 1965. Sri Siddique was charged under clause 19(5) of the Standing Order for riotous and indecent behaviour, on the allegation that on 29th September, 1965 at about 3-20 P.M. he threatened to assault those who were taking payment of the ordinance bonus on 29th September, 1965 at about 3-20 P.M.. He was asleep as he had to work during the night shift. This false charge was framed against him in order to victimise him for not drawing the ordinance bonus. According to him he had not drawn the bonus because the Company was giving the less bonus and was not giving any explanation for less bonus and that the charge was given to him in order to terrorise him to accept less bonus.

18. The enquiry into the chargesheet was conducted by Sri N. K. Prasad, the Senior Welfare Officer, Digwadih Colliery. The enquiry into the chargesheet was fixed on 11th November, 1965 at 8-30 A.M. at Digwadih Colliery. On 11th November, 1965 the workmen requested for adjournment of the enquiry as they had to attend the court of S.D.O. Dhanbad on that date. Their prayer was allowed and the next date of enquiry was fixed on 11th November, 1965 at 8-30 A.M. at Digwadih Colliery. The workmen including Sri Siddique filed representation before the C.M.F. (Ext. W-2). In that letter they stated that it was not possible for them to bring their witnesses to Digwadih Colliery office and prayed that the enquiry be held either at the Jamadoba Colliery office or at the Washing Plant. Their request was not allowed and ultimately the enquiry was held *ex-parte* in the absence of the workmen on 22nd November, 1965. In the enquiry proceeding the following witnesses were examined viz. Sri S. N. Singh L.A. 2. Sri Brijnandan Singh, 3. Sri Baba Singh Driver, 4. Yadunandan Singh, 5. Sri Gopalak, 6. Sri Tarkeshwer Prasad, 7. Sri Subedar Mishra and 8. Sri Ram Janam Singh. Out of the aforesaid witnesses only Sri S. N. Singh, the Legal Assistant, who was the complainant in this case had named Sri Siddique as one of the person who shouted and moved toward the management's office. Sri Siddique has not been named as a person present at the time of occurrence by the other witnesses. The enquiring officer has not recorded a separate finding against Sri Siddique. Sri Siddique was not named by any other witnesses. He was only named by Sri S. N. Singh, who was the complainant and for whom it was not possible to know all the workmen of the colliery. The enquiring officer has not separately discussed the case of Sri Siddique. There were several items of overt acts constituting misconduct in the chargesheet of Sri Siddique but there was no evidence on those overt acts.

19. Under these circumstances I find that the finding of the enquiring officer in his case was entirely opposed to the whole body of the evidence adduced before him.

20. According to the union the concerned workmen was victimised for refusing to take the payment of profit sharing bonus. According to the union the workmen Sri Siddique was innocent and he was dismissed from service because he had displeased the employer in not lifting the ordinance bonus. The evidence adduced in this case goes to show that the dismissal of Sri Siddique was by way

of victimisation for his trade union activities, for example, in not lifting the ordinance bonus.

21. To sum up, I held that the dismissal of Sri Teja Singh Heavy Tyndal, with effect from the 3rd May, 1966 and Sri Siddique Sherwan Feeder Attendant with effect from the 5th of March, 1966 amounts to victimisation for their trade union activities. Therefore, Sri Teja Singh and Sri Siddique Sherman are entitled to be reinstated with full back wages from the date of their dismissal i.e. from 3rd May, 1966 and 5th March, 1966 respectively upto the date of reinstatement along with continuity of service.

22. This is my award. It may be submitted to the Central Government under section 15 of the Industrial Disputes Act, 1947.

(Sd.) SACHIDANAND SINHA,
Presiding Officer,

Central Govt. Industrial Tribunal-cum-Labour Court No. 3, Dhanbad
[No. 2/123/66-LRII]

S.O. 1984.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Jabalpur, in the industrial dispute between the employers in relation to the management of Rayatwari Colliery, Post Office Chanda (District Chanda) and their workmen, which was received by the Central Government on the 6th May, 1969.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR.

Dated, the 23rd April, 1969

PRESENT:

Shri G. C. Agarwala, Presiding Officer.

CASE REFERENCE No. CGIT/LC(R) (51) of 1968

PARTIES:

Management of Rayatwari Colliery, Chanda, Distt Chanda (Maharashtra)

Versus

Their workmen.

APPEARANCES:

For employers—Shri S. G. Rao, Manager, Rayatwari Colliery.

For workmen—Shri C. G. Arya, Branch Secretary, Maharashtra Pradesh Rashtriya Koyala Khadan Kamgar Sangh

INDUSTRY: Coal Mine.

DISTT.: Chanda (M.S.)

AWARD

By Notification No. 11168-LRII dated 23th October, 1968, the Ministry of Labour, Employment & Rehabilitation (Department of Labour & Employment), Government of India, referred the following matter of dispute as stated in the schedule to the order of reference to this Tribunal, for adjudication:—

Matter of Dispute

Whether the management of Rayatwari Colliery, Chanda, District Chanda (Maharashtra) was justified in refusing to pay pushing allowance to their underground Loaders at the rate prescribed in para 37 of the Wage Board Recommendations for Coal Mining Industry, at page 116 (Vol. 1) of the Report? If not, what relief are these workmen entitled?

2. The Colliery, Rayatwari Colliery, lies in Wardha Valley Coalfield, where the practice has been that the underground loaders have also to do the pushing of tubs both empty and loaded. The management of this colliery on the strength of All India Industrial Tribunal (Colliery Disputes) Award commonly known as Majumdar Award as modified by L.A.T. have been paying wages under paragraph 625, page 165 as pushing allowance at the rate of 0-1-0 for every tub

pushed from haulage plane to coal face and back again, in addition to the piece rate wages of their work as loaders. This provision runs as follows:—

“The loader-cum-trammer in Wardha Valley will get an extra allowance of one anna for every tub pushed by him from haulage plane to coal face and back again.”

It may be mentioned that this payment of one anna for every tub is without any distance restriction. For all other collieries, the Majumdar Award in para 604, page 160, prescribed anna one for every 100 ft. or part thereof in excess of the first 100 ft. According to management this distance limit was meant for Bihar and Bengal Coalfields where there were piece rated trammers. Para 37 of the Coal Wage Board recommendations which has to be read in conjunction with paras 35 and 36 under the heading “Empty Tub Pushing” at page 116 Vol. I states as follows:—

“35. There was also a demand before the Majumdar Tribunal that when the miners are required to push tubs, whether empty or full, they should be paid an additional allowance for it at the rate of Rs. 0-1-0 for every 100 ft. In excess of the first 100 ft. the Tribunal held that it was not the duty of the miners to push tubs and that if there was any distance limit for the trammers in any of the collieries and if miners are asked to push tubs they should be paid a consolidated payment of one anna for 100 ft. or part thereof in excess of the first 100 ft. This decision was also upheld by the Labour Appellate Tribunal.

36. The Indian National Mine Workers' Federation (INTUC) has claimed that the allowance for pushing empty tubs should be increased by the same percentage as the increase in the total emoluments of miners and loaders. The All India Khan Mazdoor Federation (HMS) has demanded that the rate for pushing of empty tubs should be adequately increased and should be reckoned for dearness allowance if it is separate. The Indian Mine Workers' Federation (AITUC) has claimed that the tub pushing allowance should be 25 paise for every 100 ft. The United Trade Union Congress has stated that the present system of free tub pushing upto 100 ft. should be abolished and tub pushing allowances should be increased in the same proportion as may be recommended by the Board in total emoluments.

37. Taking all factors into consideration, we recommend that a consolidated rate of Rs. 0.075 paise per tub of 36 cft. should be paid as tub pushing allowance for every 100 ft. or part thereof in excess of the first 100 ft.”

According to the management these paragraphs do not refer to the loaders or coal fillers of the Wardha Valley Coalfield and have reference to Bihar and Bengal Coalfield only. The management, therefore, are not bound to make this payment. When, however, the loaders raised a dispute and the management were pressed they agreed to raise the rate to 35 paise per tub irrespective of the distance and an agreement was executed in terms thereof (Ex. E/1). Para 1 of this agreement prescribes a rate of Rs. 0.40 p. for pushing with lead and lift between limits of 125 and 2000 ft. This agreement according to the management was extended without the demand of the workers by another letter dated 30th April, 1968 (Ex. E/2). The flat rate of 0.35 p. which has been raised by agreement represents 23 per cent increase on the existing wages and which comes to Rs. 0.075 per tub of 36 cft irrespective of the distance. This 23 per cent increase according to the management is in accordance with para 55 page 74 Chapter VIII Section C of the Wage Board Recommendations as the loaders-cum-trammers are a distinct category of their own. Besides raising these pleas the management contended that there was no justification to pay extra wages and even on merits. The recommendations of the Wage Board are only recommendatory and not mandatory and the management were not bound to accept the same as the industry as a whole has no capacity to pay.

3. The dispute in the conciliation was raised by 63 loaders of whom Bechan Punwasi was a loader. Five of them, however, appeared in conciliation and they were S/Sri Natharapidoo, Samadhan, Bechan Punwasi, A. Lineayya and Sahabuddin. When the reference was received notice was issued in the beginning to Sri Bechan Punwasi who filed a confused statement of claim. He later on absented with the result that notices had to be sent to all the five workmen who had appeared in conciliation. They were further advised to solicit the help of some union representative of the industry as there appeared to have been

no well organised union in this colliery. When the case was taken up finally for hearing, the workers nominated one Sri C. G. Arya, Branch Secretary of Maharashtra Pradesh Rashtriya Koyala Khadan Kamgar Sangh as their representative. The management filed certain documents which were admitted. No documents were filed by the workmen. As the parties did not produce any oral evidence arguments were thereafter heard.

4. On behalf of the management, a preliminary objection was taken that the dispute was not an industrial dispute. Such a plea had not been taken in the written statement. Apart from this, on the face of it, is a frivolous one. The conciliation failure report shows that the demand was made by as many as 63 loaders. No objection was taken in conciliation that the dispute was not an industrial one. By its very nature it is a collective industrial dispute. The fact that it has not been raised by a union is of no consequence. A substantial number of workers themselves raised a dispute and that is enough. The plea is clearly untenable.

5. The argument that the Wage Board recommendations are merely directory and not mandatory is also of no avail to the management. The opening paragraph of the agreement dated 26th February, 1968 itself would reveal that the management had no objection in the implementation of the recommendations of Central Wage Board but their stand was that para 37, page 116 of the report was not applicable to Wardha Valley Coalfield. The same was the stand in conciliation. There was no plea in conciliation that the management had no capacity to pay and there is no material before this Tribunal to show that this colliery merits any special consideration for exemption from the recommendations of the Central Coal Wage Board which as an expert body made recommendations and are meant to be implemented so as to standardise wages in the coal industry.

6. The next question to be considered is whether para 37 page 116 Vol. I of the Central Wage Board Recommendations covers all the coalfields or the Wardha Valley Coalfields as claimed by management are exempted therefrom. There is no merit in this contention also. Chapter VIII Section C Vol. I dealt with the wage structure of piece rated workers. Loaders which have been described at S 1.3 as Basket Loader (M. C. Loader) have been placed in Group IV and so are Dressers, Loaders in Chanda, mentioned of S 1.7. Trammers are also in Group IV at S 1.14. In paragraph 36, basic wage and fall back wage have been given for each group. For Group IV, both the basic wages and the fall Back wages have been stated as Rs. 6/-. In paragraph 45, while discussing wages for loaders it was observed that "the rates which we have recommended are for loading work only. We are aware that in some collieries loaders are also called upon to do the work of dressing and tramping in addition to their normal work of loading. We recommend that in such cases loaders should be paid extra remuneration for such additional work. The quantum of such remuneration should be negotiated at unit level and in case of dispute it should be settled by voluntary arbitration or adjudication." It may be mentioned that this related to both dressing and tramping work done by loaders. We are concerned in this case with tramping only. Paragraph 55 under this Chapter VIII Section C at page 74 refers to wages for other piece rated workers. It provides 23 per cent increase at basic consolidated wage inclusive of attendance bonus for other piece rated workers referred to in classification in paragraph 35 in the manner like miners and loaders. Evidently, this provision has no application. In Chapter IX of the Wage Board Recommendations dealt with Outlying Coalfields and Ancillary Undertakings. While dealing with Madhya Pradesh, Orissa and Maharashtra, in paragraph 9 the report recorded that "As regards piece-rated workers, we have already dealt with their case: *vide* Section "C" of Chapter VIII." This clearly shows that no exception was made for collieries in Madhya Pradesh, Orissa and Maharashtra. The piece rated workers were all to be governed by Chapter VIII Section C. Para 37 at page 116 in Chapter XII dealing with Allowances manifestly refers to all cases without any distinction. The Majumdar Award may have made a distinction for Wardha Valley Coalfield Loaders but the Coal Wage Board made no distinction and para 37 is to apply for loaders who have to do extra work of tramping by pushing tubs at the rate of 0.075 per tub of 36 cft. for every 100 ft. or part thereof in excess of first 100 ft. It cannot be said that the Board had not the special conditions of Madhya Pradesh, Orissa and Maharashtra in their mind. They discussed the subject specifically in Chapter IX Clauses 8 & 9. If therefore the concession made for Wardha Valley Coalfield in Majumdar Award had to be continued, the Board must have made a reference about it and the omission to do so clearly indicates that this paragraph 37 is applicable to all coal mines irrespective of their locations.

7. The management filed a certain wage sheets statement showing that along with the loading the loaders on an average have been loading more than three tubs per day and that for pushing they have been earning extra income. It was suggested that if the management are required to pay wages for pushing on the prescribed basis of 100 ft. or part thereof they will have to employ separate trammers and which would result in loss to the workers themselves. The workers are the best judge of their own interest and what the management would or would not do will be of no consideration in determining the question. The further fact that in accordance with the plan of the mine filed by the management which would show that pushing has to be done for quite a long distance, would also be of no avail. As a matter of claim at the prescribed rate in as a matter of fact, this furnishes an additional ground to workmen to claim at the prescribed rate in paragraph 37 Chapter XII of the Coal Wage Board recommendations.

Decision:

The result is that issue under reference is answered in negative. The management were not justified in refusing to pay pushing allowance to underground loaders at the rate prescribed in para 37 Chapter XII at page 116 Vol. I of Central Wage Board Report for Coal Mining Industry. The workmen are entitled for pushing allowance at the rate prescribed in paragraph 37 aforesaid from the date of reference which is 28th October, 1968. No order for costs.

Sd./ G. C. AGARWALA,
Presiding Officer.

The 23rd April, 1969.

[No. 1/11/68-LRII.]

New Delhi, the 15th May 1969

S.O. 1985.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Jabalpur, in the industrial dispute between the employers in relation to the management of Lalpeth Colliery Chanda, District Chanda (Maharashtra) and their workmen, which was received by the Central Government on the 7th May, 1969.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

Dated April 26, 1969

PRESENT:

Shri G. C. Agarwala—Presiding Officer.

CASE REF. NO. CGIT/LC(R)(52) OF 1968.

PARTIES:

Employers in relation to the management of Hindustan Lalpeth Colliery, Chanda, District Chanda (Maharashtra).

Versus

Their workmen.

APPEARANCES:

For employers.—Shri Lalitmohan Chatterjee, Safety Officer.

For workmen.—Shri Ramilla Lallaya, Coal Filler.

INDUSTRY: Coal Mine.

DISTRICT: Chanda (M.S.)

AWARD

By Notification No. 1/12/68-LRII, dated 26th October 1968, the Ministry of Labour, Employment & Rehabilitation (Department of Labour & Employment), Government of India, referred the following matter of dispute as stated in the schedule to the order of reference to this Tribunal, for adjudication:—

Matter of Dispute

Whether the management of Hindustan Lalpeth Colliery, Chanda, District Chanda was justified in refusing to pay pushing allowance to underground loaders at the rate prescribed in para 37 of Wage Board's

Recommendations at page 116 (Vol. I) of the Report of the Central Wage Board for the Coal Mining Industry? If not, to what relief, are these workmen entitled?

2. The Colliery, Hindustan Lalpeth Colliery, lies in Wardha Valley Coalfield, where the practice has been that the underground loaders have also to do the pushing of tubs both empty and loaded. The management of this colliery on the strength of All India Industrial Tribunal (Colliery Disputes) Award commonly known as Majumdar Award as modified by L.A.T. have been paying wages under paragraph 625, page 165 as pushing allowance at the rate of 0-1-0 for every tub pushed from haulage plane to coal face and back again, in addition to the piece rate wages of their work as loaders. This provision runs as follows:—

“The loader-cum-trammer in Wardha Valley will get an extra allowance of one anna for every tub pushed by him from haulage plane to coal face and back again.”

It may be mentioned that this payment of one anna for every tub is without any distance restriction. For all other collieries, the Majumdar Award in para 604, page 160, prescribed anna one for every 100 ft. or part thereof in excess of the first 100 ft. According to management this distance limit was meant for Bihar and Bengal Coalfields where there were piece rated trammers. Para 37 of the Coal Wage Board recommendations which has to be read in conjunction with paras 35 and 36 under the heading ‘Empty Tub Pushing’ at page 116 Vol. I state as follows:—

“35. There was also a demand before the Majumdar Tribunal that when the miners are required to push tubs, whether empty or full, they should be paid an additional allowance for it at the rate of Re. 0-1-0 for every 100 ft. in excess of the first 100 ft. The Tribunal held that it was not the duty of the miners to push tubs and that if there was any distance limit for the trammers in any of the collieries and if miners are asked to push tubs they should be paid a consolidated payment of one anna for 100 ft. or part thereof in excess of the first 100 ft. This decision was also upheld by the Labour Appellate Tribunal.

36 The Indian National Mine Workers’ Federation (INTUC) has claimed that the allowance for pushing empty tubs should be increased by the same percentage as the increase in the total emoluments of miners and loaders. The All India Khan Mazdoor Federation RIS has demanded that the rate for pushing of empty tubs should be adequately increased and should be reckoned for dearness allowance if it is separate. The Indian Mine Workers’ Federation (AITUC) has claimed that the tub pushing allowance should be 25 paise for every 100 ft. The United Trade Union Congress has stated that the present system of free tub pushing upto 100 ft. should be abolished and tub pushing allowances should be increased in the same proportion as may be recommended by the Board in total emoluments.

37 Taking all factors into consideration, we recommend that a consolidated rate of Rs. 0 0 15 paise per tub of 36 cft. should be paid as tub pushing allowance for every 100 ft. or part thereof in excess of the first 100 ft.

According to the management these paragraphs do not refer to the loaders or coalfillers of the Wardha Valley Coalfield and have reference to Bihar and Bengal Coalfields only. The management, therefore, are not bound to make this payment. Even so, it was contended that when loaders also called coalfillers approached the management through one of their representatives, Gajapaka Yella an agreement was reached on 15th January, 1968 whereunder the management agreed to raise the rate of pushing to Re. 0.25 paise per tub irrespective of the distance of coal faces, from the date of the acceptance of the Central Wage Board Recommendations against the suggested rate of Re. 0 0 75 per tub as a gesture of goodwill (*vide* p. 1 of settlement Ex. 2/1). Under this agreement, the management further agreed to implement the recommendations of the Central Wage Board with effect from the week ending 3rd February 1968. The agreement however, bears the signature of only Gajapaka Yella and no other loader or coalfiller. It may be mentioned that the agreement was not recorded in conciliation and cannot be treated as settlement so as to bind the entire body of the workmen. According to the management, when the dispute has been finally resolved by a recent agreement before reference there is no question of application of the Wage Board recommendation as provided in paragraph 37 page 116.

3. The management further contended that after the settlement dated 15th January 1968 there was no dispute left and Ramilla Lallyya had no *locus standi*

to raise the dispute and which is not an industrial dispute. The conciliation failure report shows that the dispute was raised not by one man but as many as eight loaders with Kanmal Hanmantha as their leader. It was not raised by Ramilla Lallyya alone. Further it appears that six out of these eight appeared in conciliation proceedings. In this Tribunal when Ramilla Lallyya did not appear in response to the notice, notices had to be sent to all the six who had taken part in conciliation proceedings, in pursuance thereof three appeared on the hearing rendered on 14th March, 1969. No statement of claim was, however, filed. The workers again absented on the next date of hearing which was 25th March 1969 and case was again adjourned to 22nd April 1969 for full hearing. Ramilla Lallyya appeared on this date. No evidence was tendered on the side of the workmen. The management filed four documents which were proved by an affidavit and did not examine any witness. The fact that loaders had also been doing pushing in the past was admitted by Ramilla Lallyya.

4. The plea that the dispute had been settled by an agreement and is no more an industrial dispute has no merit. The very nature of dispute which is of a collective nature shows that the dispute is an industrial one. It is for the benefit of all the loaders or coalfillers. Quite a substantial number of them, as many as eight, had raised the plea. The agreement dated 15th January 1968 relied upon by the management will be of no avail to them. It was not an agreement in conciliation so as to bind the entire body of the workmen under Sec. 18(3) I.D. Act. In the conciliation proceedings, the stand of the management was that they have been paying Re. 0.25 per tub as a special case and that they were not in a position to raise the rate. There was no stand taken by them that the dispute had already been settled. It appeared that the management chose to have an agreement with only one worker, Gajapaka Yella and they have to suffer the consequences for not having made a settlement in accordance with Sec. 12 I.D. Act. There was no objection taken in conciliation that the dispute was not an industrial one and since it has been raised by a substantial number of workmen, it manifestly is an industrial dispute.

5. The argument that the Wage Board recommendations are merely recommendatory and are not mandatory is also of no avail to the management. In the agreement dated 15th January 1968 in para 2 they have agreed to implement the same. As a matter of fact, they themselves have filed a letter of the Asstt. Labour Commissioner dated 12th March, 1963 (Ex E/2) in which they have been congratulated for speedy action in implementing the wage structure of the Wage Board Recommendations. It is not open to them to contend that it is merely directory and they never agreed to implement the same. There is no material that they have no capacity to pay and are entitled to any special consideration for exemption from the recommendations of the Central Wage Board. When an expert body made recommendations they were meant to be implemented so as to standardise wages in the coal industry.

6. The next question to be considered is whether para 37 page 116 Vol. I of the Central Wage Board Recommendations covers all the coalfields or the Wardha Valley Coalfields as claimed by management, are exempted therefrom. There is no merit in this contention also. Chapter VIII Sec. C Vol. I dealt with the wage structure of piece rated workers. Loaders which have been described at Sl. 3 as Basket Loader (M. C. Loader) have been placed in Group IV and so are Dressers. Loaders in Chanda, mentioned at Sl. 7. Trammers are also in Group IV at Sl. 14. In paragraph 36, basic wage and fall back wage have been given for each group. For Group IV, both the basic wages and the fall back wages have been stated as Rs. 6/-. In paragraph 45, while discussing wages for loaders it was observed that "the rates which we have recommended are for loading work only. We are aware that in some collieries loaders are also called upon to do the work of dressing and tramming in addition to their normal work of loading. We recommend that in such cases loaders should be paid extra remuneration for such additional work. The quantum of such remuneration should be negotiated at unit level and in case of dispute it should be settled by voluntary arbitration or adjudication." It may be mentioned that this related to both dressing and tramming work done by loaders. We are concerned in this case with tramming only. Paragraph 55 under this Chapter VIII Sec. C at page 74 refers to wages for other piece rated workers. It provides 23 per cent increase at basic consolidated wage inclusive of attendance bonus for other piece rated workers referred to in classification in paragraph 35 in the manner like miners and loaders. Evidently, this provision has no application. Chapter IX of the Wage Board Recommendations dealt with Outlying Coalfields and Ancillary Undertakings. While dealing with Madhya Pradesh, Orissa and Maharashtra, in paragraph 9 the report recorded that "As

regards piece rated workers, we have already dealt with their cases, *vide* section "C" of Chapter VIII." This clearly shows that no exception was made for collieries in Madhya Pradesh, Orissa and Maharashtra. The piece-rated workers were all to be governed by Chapter VIII Sec. C. Para 37 at page 116 in Chapter XII dealing with Allowances manifestly refers to all cases without any distinction. The Majumdar Award may have made a distinction for Wardha Valley coalfield loaders but the Coal Wage Board made no distinction and para 37 is to apply for loaders who have to do extra work of tramming by pushing tubs at the rate of 0.073 per tub of 38 cft. for every 100 ft. or part thereof in excess of first 100 ft. It cannot be said that the Board had not the special conditions of Madhya Pradesh, Orissa and Maharashtra in their mind. They discussed the subject specifically in Chapter IX Clauses 8 & 9. If therefore the concession made for Wardha Valley Coalfield in Mazumdar Award had to be continued, the Board must have made a reference about it and the omission to do so clearly indicates that this paragraph 37 is applicable to all coal mines irrespective of their locations.

7. The management filed copies of weekly pay sheets (Ex. E/1 & E/3). Ex. E/1 is the Wage Sheet for the week ending 17th June 1967. Under the old rate of pushing allowance, the workers were getting nearly Re. 1/- per week. Wage Sheet (Ex. E/3) for the week ending 15th June 1968 would show that at the enhanced rate of Re. 0.25 per tub the allowance varies from Rs. 1.25 to Rs. 3.88. This is hardly a satisfactory increase. The earnings are not so high as to merit any exemption in favour of the management.

Decision:

The result is that issue under reference is answered in negative. The management were not justified in refusing to pay pushing allowance to underground loaders at the rate prescribed in para 37 Chapter XII at page 116, Vol. I of Central Wage Board Report for Coal Mining Industry. The workmen are entitled for pushing allowance at the rate prescribed in paragraph 37 aforesaid from the date of reference which is 28th October, 1968. No order for costs.

(Sd.) G. C. AGARWALA,
Presiding Officer.
28-4-1969.

[No. 1/12/68-LRIL.]

S.O. 1986.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal (No. 3), Dhanbad, in the industrial dispute between the employers in relation to the South Golukdih Colliery, Post Office Jharia, District Dhanbad and their workmen, which was received by the Central Government on the 8th May, 1969.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 3) AT DHANBAD

REFERENCE No. 10 OF 1968

PRESENT:

Shri Sachidanand Sinha, M.A.M.L., Presiding Officer.

PARTIES:

Employers in relation to the South Golukdih Colliery and their workmen.

APPEARANCES:

For employers.—Sri P. C. Bose, Advocate.

For workmen.—Sri H. N. Singh, Vice President, Koyala Mazdoor Panchayat

INDUSTRY: Coal.

STATE: Bihar

Dhanbad, dated the 29th of April, 1969

AWARD

1. The Central Government, by its order No. 2/92/68 LRIT dated the 5th of August, 1968 have referred to this tribunal under section 10(1)(d) of the Industrial

Disputes Act, 1947 for adjudication an Industrial dispute existing between the employers in relation to the South Golukdih colliery, Post Office Jharia, District Dhanbad and their workmen, in respect of the matters specified in the Schedule annexed thereto. The Schedule is extracted below:—

SCHEDULE

"Whether the management of South Golukdih Colliery Post Office Jharia (Dhanbad) is justified in stopping Sri Indrana Singh from work with effect from the 21st October, 1967? If not, to what relief is the workman entitled?"

2. The employers filed the written statement on 21-9-68. According to the management the concerned workman Sri Indrana Singh was appointed as a Mining Apprentice with effect from 1-12-65 and his services have been terminated without any notice as the management had no work for an apprentice.

3. The Vice President, Koyala Mazdoor Panchayat which has espoused the cause of the workmen filed the written statement on 7-9-68. Their case is that at the relevant time the concerned workman Sri Indrana Singh was working as an attendance clerk.

4. It is unnecessary to state the respective cases of the parties in detail as the dispute has been amicably settled. On the date fixed for hearing the parties came up with a joint settlement of compromise. According to the terms of compromise the services of Shri Indrana Singh, workman concerned, will stand terminated as if he has been retrenched and the management has agreed to pay to Shri Indrana Singh a sum of Rs. 2 000/- (Rupees two thousand) only in full settlement of all his claims towards the management.

5. The terms are satisfactory and are accepted. Accordingly an award is made in terms of the joint petition of settlement, annexure 'A' which shall form part of the award.

6. It may now be submitted to the Central Government under section 15 of the Industrial Disputes Act, 1947

(Sd.) SACHIDANAND SINHA,
Presiding Officer

ANNEXURE 'A'

BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT NO. 3, DHANBAD

REFERENCE No. 10 OF 1968

BETWEEN

Employers in relation to South Golakdih Colliery of M/s South Golakdih
Coal Co. P.O. Jharia Dhanbad

AND

Their workmen represented by Koyala Mazdoor Panchayat P.O. Jharia,
Dhanbad

In the interest of mutual good relation and industrial peace it has been decided to compose of this dispute on the following terms and condition.

Terms of settlement

1. That services of Shri Indrana Singh, workman concerned, will stand terminated as if he has been retrenched with effect from this date of settlement
2. That the management shall pay to Shri Indrana Singh a sum of Rs. 2,000/- (Rupees Two Thousand) only in full settlement of all his claims towards the management.
3. That this payment shall be made to Shri Indrana Singh within fifteen days of this settlement i.e. on or before 7th May 1969.

It is therefore requested that the Hon'ble Tribunal be pleased to pass the order in terms of this settlement.

Representing the Employers.

(Sd.) Illegible

(Sd.) Illegible

APPEARANCE.

Dated, the 22nd April, 1969

Representing the workman

(Sd.) Illegible

(Sd.) Illegible.

New Delhi, the 16th May 1969

S.O. 1987.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Dhanbad, in the industrial dispute between the employers in relation to the West Gopalichuck Colliery of Messrs Central Kirkend Coal Company Limited, Post Office Kusunda, District Dhanbad and their workmen, which was received by the Central Government on the 12th May, 1969.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT DHANBAD

In the matter of a reference under section 10(1) (d) of the Industrial Disputes Act, 1947

REFERENCE No. 29 of 1968

PARTIES:

Employers in relation to the West Gopalichuck Colliery

AND

Their workmen represented by the Bihar Koyala Mazdoor Sabha.

PRESENT:

Shri Kamla Sahai, Presiding Officer.

APPEARANCES:

For the Employers—Shri G. C. Mukherjee, Manager.

For the Workmen—Shri Lalit Burman, General Secretary.

STATE: Bihar.

INDUSTRY: Coal.

Dhanbad, dated the 9th May, 1969

AWARD

The Central Government, in the Ministry of Labour, Employment and Rehabilitation has made this reference by its order No. 2/50/68-LRII dated the 4th May, 1968 to this Tribunal for adjudication of a dispute described in the schedule as follow:

"Whether the action of the management of West Gopalichuck Colliery of M/s. Central Kirkend Coal Company Limited, Post Office, Kusunda, District, Dhanbad in terminating the services of Shri Debidaval Halwai, Line Mistry with effect from the 6th October, 1967 was justified? If not, to what relief is the workman concerned entitled?"

On the 9th May, 1969, the date fixed for hearing of the case both parties appeared before the Tribunal. Shri Lalit Burman, appearing on behalf of the Union, reported to the Tribunal that the workman in question had died. No other workman is involved in this reference, which is accordingly discharged.

Send a copy of this order to the Central Government for information.

(Sd.) KAMLA SAHAI.

Presiding Officer.

[No. 2/50/68-LR'I.]

S.O. 1988—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Calcutta, in the industrial dispute between the employers in relation to the management of Ranipur Colliery of Messrs Equitable Coal Company Limited, Post Office Dishergarh District Burdwan and their workmen which was received by the Central Government on the 7th May, 1969

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, CALCUTTA

REFERENCE No. 3 of 1969

PARTIES.

Employers in relation to the management of Ranipur Colliery of Messrs Equitable Coal Company Limited,

AND

Their workmen.

PRESENT:

Shri B. N. Banerjee, Presiding Officer.

APPEARANCES:

On behalf of Employe—Shri Monoj Kumar Mukherjee, Advocate.

On behalf of Workmen—Shri Nikhil Das, Advocate.

STATE: West Bengal.

INDUSTRY: Coal Mines.

AWARD

By Order No. 6/77/68-LRII dated November 25, 1968, the Government of India, in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment), referred the following dispute between the employers in relation to the management of Ranipur Colliery of Messrs Equitable Coal Company Limited and their workmen, to this Tribunal, for adjudication, namely:

"Whether the management of Ranipur Colliery, Post Office Neturia, District Purulia, was justified in denying to give the workmen named below engaged on smithy jobs at Ranipur Colliery, the status wages, allowances, benefits and other privileges generally available to the workmen of equivalent category in the Coal Industry?

1. Shri Sanatan Karmakar—Blacksmith
2. Shri Mahadeo—Blacksmith.
3. Shri Subodh—Blacksmith.
4. Shri Gobardhan—Blacksmith
5. Shri Kali—Hammerman.
6. Ajit Dhar—Hammerman.

If not, to what relief are the workmen entitled and from which date?"

2. The case of the workmen was espoused by a trade union of the name of Colliery Mazdoor Congress, which filed a written statement. The employer company also filed a written statement. At the hearing today, however, both the parties filed a joint petition of compromise settling the dispute and prayed for an award in terms of the petition of settlement.

3. Now that the parties have settled their dispute, I pass an award in terms of the settlement. Let the petition of compromise form part of this award.

(Sd.) B. N. BANERJEE,
Presiding Officer.

Dated, May 1, 1969.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL

REFERENCE No. 3 OF 1969

Employers in relation to Ranipur Colliery

AND

Their workmen.

The parties abovenamed beg to state most respectfully as follows:

- (1) That the parties have decided to mutually settle their disputes, covered in the above reference on the following terms and conditions:
 - (a) That Sarvashri Mahadeo and Subodh, the two Blacksmiths and Sarvashri Ajit Dhar *alias* Ayodhya and Shri Sanatan the two Hammermen will be re-employed in their former jobs as Blacksmiths and Hammermen respectively at Ranipur Colliery of the employers and they will be placed in their appropriate categories according to Wage Board award by 15th May, 1969.
 - (b) That the above four workmen shall be treated as new entrants from the date they join their duties in terms of this settlement and they will have no further claim against the employer whatsoever.
 - (c) That in view of the fact that the employer have no other vacancy, the other two workmen i.e., Svs. Gobardhan and Kali, Hammermen, will not be entitled to re-employment and they will be paid a sum of Rs. 500/- (Rupees Five hundred) each by the employers on or before 15th May, 1969 towards full and final settlement of all their claims in the above dispute.

The employers and workmen jointly pray that the Hon'ble Tribunal be pleased to accord permission to your petitioners for settling the dispute in the above Reference on the terms set out above, and for passing an award in terms thereof.

AND

For this act of kindness the parties will ever pray.

Dated, May 1, 1969.

(Sd.) NIKHILESH DAS
(For workmen)
Advocate.

(Sd.) MONOJ KUMAR MUKHERJEE,
(For Employers)
Advocate.

Witness:

(Sd.) SIDDHESWAR CHATTERJEE,
(For workmen)
Asst. Secretary,
Ranipur Colliery,
Branch Colliery,
Mazdoor Congress.

(Sd.) HARIDAS BANERJEE,
(For employers)

[No. 6/77/68-LRII.]

S.O. 1989.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal (No. 3), Dhanbad, in the industrial dispute between the employers in relation to the West Katras Colliery of Messrs Nirmal Kumar Bose and Brothers and their workmen, which was received by the Central Government on the 8th May, 1969.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 3) AT DHANBAD

REFERENCE NO. 41 OF 1968

PRESENT:

Shri Sachidanand Sinha, M.A.M.L., Presiding Officer.

PARTIES:

Employers in relation to the West Katras Colliery

Vs.

Their workmen.

APPEARANCES:

For employers—Shri T. P. Chaudhary, Advocate.

For workmen—Shri Shanker Bose Secretary Colliery Mazdoor Sangh.

INDUSTRY: Coal.

STATE: Bihar.

Dhanbad, dated the 26th April, 1969

AWARD

1. The Central Government, being of opinion that an industrial dispute exists between the employers in relation to the West Katras Colliery of Messrs Nirmal Kumar Bose and Brothers, Post Office Katrasgarh, District Dhanbad, and their workmen by its order No. 2/127/66-LRII dated the 17th of September, 1966, referred to the Central Government Industrial Tribunal, Dhanbad under section 10(1)(d) of the Industrial Disputes Act, 1947 for adjudication the dispute in respect of the matters specified in the schedule annexed thereto. The schedule is extracted below:

SCHEDULE

"Whether Shri Kharu Manjhi, Mining Sirdar at the West Katras Colliery of Messrs Nirmal Kumar Bose and Brothers, Post Office Katrasgarh, District Dhanbad, had voluntarily resigned service with effect from the 19th May, 1966? If not, to what relief is the workman entitled?"

2. The Central Government Industrial Tribunal, Dhanbad registered the reference as reference No. 123 of 1966 on its file. While it was pending there the dispute was transferred to the Central Government Industrial Tribunal, No. 2,

Dhanbad by the Central Government by its order No. 8/25/67-LRII dated the 8th of May, 1967 and there it was registered as reference No. 170 of 1967. The Central Government by its subsequent order No. 8/71/68-LRII dated the 18th of August, 1968 transferred the dispute to this tribunal and here it has been re-numbered as reference No. 41 of 1968.

3. The employers filed their written statement on 7th September, 1968. Their case is that the concerned workman Khara Manjhi was working as a Mining Sardar in the West Katras Colliery and continued to work till 19th May, 1966. The aforesaid workman applied for leave from 2nd May, 1966 to 18th May, 1966 on the ground of arranging marriage of his two daughters. The workman presented an application before the manager of West Katras Colliery submitting his resignation with effect from the said date on the ground that the concerned workman wanted to work in some other colliery. The said application was accepted by the manager Sri S. N. Mukherjee on 19th May, 1966. That on 30th May, 1966 the said workman received full and final payment upto the date of his resignation from the employers and granted a receipt to the above effect. On that date he also received back his Sardarship certificate and first aid certificate. The employers also informed the Assistant Labour Commissioner, Central, Dhanbad, that the aforesaid workman had resigned out of his own accord and that the management accepted the same and has paid all his dues in full and final. It is also said that the workman even previously has applied for leave for two days i.e. from 11th April, 1966 to 12th April, 1966 owing to some urgent work in his house and that the said application was allowed by the manager of the colliery. According to the manager the concerned workman had voluntarily resigned his service with effect from 19th May, 1966 and had received his full and final payment of his wages upto the date of resignation and had granted a receipt of this effect and that the concerned workman is at present working at Lakshami Salanpur colliery, Katrasgarh.

4. The Secretary, Colliery Mazdoor Sangh filed their written statement on behalf of the workman. Their case is that Sri Khara Manjhi was on leave from 2nd of May, to 18th of May, 1966 and on 19th May when he reported for duty he was refused employment by the management and since then he was not allowed to resume duty in spite of his repeated prayers. According to the union Sri Khara Manjhi had not submitted resignation nor he had accepted full and final payment as was alleged by the management. The union challenged the genuineness of the resignation letter and the voucher showing full and final payment. According to the union Shri Khara Manjhi did not resign voluntarily but was denied employment with effect from 19th May, 1966. The case of the union is that Sri Khara Manjhi became a member of the colliery Mazdoor Sangh and the management with a motive to crush the union terminated the service of the concerned workman. According to the union the termination of the service was an act of victimisation for being an active member of the union.

5. On behalf of the management ten items of documents were marked as Ext. M-1 to M-10. The management also examined Sri S. N. Mukherjee (MW-1), the manager of the West Katras colliery (2) Sri G. S. Mitharu (MW-2), Head clerk of the Directorate-General of Mines Safety (3) Haradhan Verma, an office clerk (MW-3) in the West Katras Colliery. On behalf of the workman Sri Khara Manjhi (WW-1), the concerned workman was examined and two items of documents are marked as Ext. W-1 and W-2.

6. The only point for consideration is whether the concerned workman Sri Khara Manjhi had voluntarily resigned service with effect from the 19th of May, 1966?

7. Ext. W-2 shows that Sri Khara Manjhi had been working as Mining Sirdar in this colliery since the year 1953. The management has filed Ext. M-1 which shows that the concerned workman was allowed two days leave from 11th April, 1966 to 12th April, 1966 on account of some urgent work in his house. Sri Khara Manjhi again applied for leave from 2nd May, 1966 to 18th May, 1966 on account of the marriage of his two daughters and the leave was allowed vide Ext. M-6. These facts are admitted.

8. According to the management Shri Khara Manjhi came to the colliery on 19th May 1966 and on that date he submitted his resignation letter (Ext. M-3). According to the workman he never submitted any resignation letter and that Ext. M-3 is a forged document. MW-3 Haradhan Verma is the office clerk of West Katras colliery. He has stated in his evidence that Sri Khara Manjhi came to the colliery on 19th May, 1966 and on that date he submitted his resignation letter (Ext. M-3) and which is in his pen and bears the thumb

impression of Khara Manjhi. His resignation letter was accepted and endorsement to this effect was made by the manager upon his resignation in his own pen. According to him Sri Khara Manjhi resigned on 19th May, 1966 as he had got a job in a colliery which was nearer to his house. MW-1 Sri S. N. Mukherjee, who was the then manager of the West Katras colliery during the relevant period, has stated in his evidence that the concerned workman submitted his resignation letter on 19th May, 1966 and he accepted the same and he made his endorsement on his resignation letter (Ext. M-3) by putting his initial thereon.

9. MW-1 Sri Khara Manjhi has also stated in his evidence that Lakshami Salanpur colliery is nearer to his house and that he worked in that colliery some times after he left the West Katras colliery.

10. According to the management after Sri Khara Manjhi resigned from his service he received his full and final payment. MW-1 Sri S. N. Mukherjee has stated in his evidence that his full and final payment was made in his presence and on receipt of the full and final payment Shri Khara Manjhi granted the receipt (Ext. M-4) on 30th May, 1966. On Ext. M-4 appears the initial of the manager Sri S. N. Mukherjee. MW-3 Haradhan Verma has also stated in his evidence that on 30th May 1966 Shri Khara Manjhi received full and final payment. In the month of May, 1966 he was paid Rs. 80.55 on account of leave wages (*vide* ext. M-8, the attendance and pay register). He further stated that on 30th May, 1966, the concerned workman Shri Khara Manjhi was paid Rs. 64.00 as bonus for quarter ending March, 1966 and that Shri Khara Manjhi received the payment and put his thumb impression on the bonus register (Ext. M-9) and that on the same date i.e. on the 30th May, 1966 he was also paid Rs. 72.04 as profit sharing bonus (*vide* ext. M-10, the register of profit sharing bonus). According to him these registers are properly maintained and are checked by the Enforcement Officer, Katras. WW-1 has also stated in his evidence that he received his arrear wages and bonus and gave his thumb impression on the relevant registers and that he has received the wages and bonus and nothing is due against the management for the period of his service.

11. It was argued before me that it was not possible for the concerned workman Sri Khara Manjhi to work in other colliery as Sirdarship certificate was still under the custody of the management. A letter was received from the Chief Inspector of Mines to the manager of the West Katras colliery to the effect that the Sirdarship certificate of Shri Khara Manjhi has not been returned to him although he is no more in service and the manager was requested to return his certificate to Khara Manjhi. The Chief Inspector of Mines was replied by the letter dated 7th November, 1966 that Shri Khara Manjhi, Mining Sirdar had left the colliery on 19th May, 1966 and has taken back his sirdarship certificate and other certificates on 30th May, 1966. Ext. M-5 shows that Sirdarship certificate and the First Aid certificate were returned to Khara Manjhi on 30th May, 1966. MW-1 Shri S. N. Mukherjee, manager of the colliery has stated in his evidence that on 30th May 1966 he handed over the Sirdarship and First Aid certificates to Sri Khara Manjhi and that the receipt Ext. M-5 was granted by Khara Manjhi and on it appears his initial. MW-3 Haradhan Verma has also stated in his evidence that both the Sirdarship and First Aid certificates were returned to Shri Khara Manjhi on 30th May, 1966 in his presence and that Khara Manjhi received these aforesaid certificates and granted receipt (Ext. M-5).

12. The evidence discussed above goes to show that after submitting his resignation (Ext. M-3) Shri Khara Manjhi received the full and final payment on 30th May, 1966 and that on that date his Sirdarship and First Aid certificates were also returned to him.

13. According to the management he had resigned because he had got a job in another colliery near his house. The concerned workman Sri Khara Manjhi also admitted in his evidence that he has received his arrear pay and bonus and that nothing is due against the management. He further admitted that after he left the West Katras Colliery he worked in Lakshami Salanpur colliery which is nearer to his house.

14. I therefore, hold that Shri Khara Manjhi Mining Sirdar at the West Katras colliery of Messrs Nirmal Kumar Bose and Brothers, voluntarily resigned service with effect from 19th May, 1966 and the concerned workman is not entitled to any relief.

15. This is my award. It may be submitted to the Central Government under section 15 of the Industrial Disputes Act 1947.

(Sd.) SACHIDANAND SINHA,
Presiding Officer.

[No. 2/127/66-LRI.]

ORDERS

New Delhi, the 13th May 1969

S.O. 1990—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the management of New Marine Colliery, Post Office Kusunda, District Dhanbad and their workmen in respect of the matters specified in the Schedule hereto annexed ;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication ;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Central Government Industrial Tribunal (No. 3), Dhanbad, constituted under section 7A of the said Act.

SCHEDULE

Whether the action of the management of New Marine Colliery, Post Office Kusunda, District Dhanbad in offering alternative employment as earth cutters, and not paying lay off compensation to the following workmen from the 23rd September, 1968 to the 1st December, 1968, was justified? If not, to what relief are the workmen entitled?

Name of the workmen	Designation
1. Shri Somar Rewari	Winning Engine Khalasi
2. Shri Kamal Gope	Do.
3. Shri Ramdas Dusadh	Onsetter
4. Shri Rameshwar Singh	Do.
5. Shri Chamari Sonar	Banksman
6. Shri Kishun Dusadh	Do.
7. Shri Tanka Mahato	Do.
8. Shri Dhannu Dusadh	Do.
9. Shri Rameshwar Ram	Do.
10. Shri Ramkishore Gope	Boiler Fitter
11. Shri Ashani Deswali	Trammer
12. Shri Guleswar Dusadh	Do.
13. Shri Puna Bhuiya	Do.
14. Shri Baijnath Dusadh	Do.
15. Shri Ramrahal Dusadh	Do.

[No. 2/253/68-LR11.]

New Delhi, the 15th May 1969

S.O. 1991—Whereas an industrial dispute exists between the employers in relation to the Singareni Collieries Company Limited, Post Office Kothagudem, Andhra Pradesh and their workmen, represented by the Singareni Collieries Workers' Union, Post Office Kothagudem and Tandur Coal Mines Labour Union, Belampalli;

And whereas the said employers and their workmen have by a written agreement, in pursuance of the provisions of sub-section (1) of section 10A of the Industrial Disputes Act, 1947 (14 of 1947), referred the said dispute to arbitration by the person specified therein, and a copy of the said arbitration agreement has been forwarded to the Central Government;

Now, therefore, in pursuance of the provisions of sub-section (a) of section 10A of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the said arbitration agreement which was received by it on the 24th April, 1969.

FORM C

Agreement

(Under Section 10-A of the Industrial Disputes Act, 1947).

BETWEEN

Names of Parties

Employers.—The Singareni Collieries Co. Ltd., Kothagudem Collieries represented by Shri V. L. Karwande, General Manager

Workmen.—(i) The Singareni Collieries Workers' Union, Kothagudium represented by Shri M. Koaralah, General Secretary.

(ii) Tandur Coal Mines Labour Union, Belampalli represented by Shri S. Nagaiah Reddy, President.

It is hereby agreed between the parties to refer the following Industrial Dispute to the arbitration of Shri O. Venkatachalam, Chief Labour Commissioner (C), New Delhi.

(i) *Specific Matter in Dispute:*

"Having regard to the recommendations of the Central Wage Board for Coal Mining Industry (Paragraphs 27 and 28 of Chapter VII) and the present financial condition of the Company, whether the Company can pay to the workmen the arrears of Dearness Allowance (difference between the rate of Rs. 1.47 per day claimed by the workmen from 1st April 1968 and the rate of Rs. 1.11 actually paid by the Management since that date) for the period from 1st April 1968 to 30th April 1969 and if so, to what relief the workmen are entitled?"

(ii) *Details of the parties to the dispute including the name and address of the establishment or undertaking involved.*

Workmen of the Singareni Collieries Company Ltd., represented by the General Secretary, Singareni Collieries Workers' Union, Kothagudium and the President, Tandur Coal Mines Labour Union, Belampalli and the Singareni Collieries Company Limited represented by their General Manager.

(iii) *Name of the Union, if any representing the Workmen in question.*

The Singareni Collieries Workers' Union, Kothagudium and the Tandur Coal Mines Labour Union, Belampalli.

(iv) *Total Number of Workmen employed in the Undertaking affected.*

31,000.

(v) *Estimated number of workmen affected or likely to be affected by the dispute.*

31,000.

We further agree that the decision of the arbitrator shall be binding on us

The arbitrator shall make his award within a period of 3 (three) months or within such further time as is extended by mutual agreement between us in writing. In case, the award is not made within the period aforementioned, the reference to arbitration shall stand automatically cancelled and we shall be free to negotiate for fresh arbitration.

Signatures of Parties

Representing Employers.

1. Sd./- V. L. KARWANDE,

General Manager,

Singareni Collieries Co. Ltd.,

Representing Workmen.

1. Sd./- M. KOMARAI AH,

General Secretary,

Singareni Collieries Workers' Union.

2. Sd./- S. NAGAI AH REDDY,

President,

Tandur Coal Mines Labour Union.

Witnesses:—

1. Sd./- S. SOMARAJU,

2. Sd./- V. GOPALA SASTRY,

Dated at Kothagudium this 16th day of April 1969.

I consent to act as Arbitrator in this Industrial Dispute.

Sd./- O. VENKATACHALAM,
19-4-69

Place:

[No. 1/29/68-LR. II.]

Date:

S.O. 1992.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the management of Damua and Kalichhappar Collieries, Post Office Damua, District Chhindwara (Madhya Pradesh), Owned respectively by Messrs Kanhan Valley Coal Company Limited and Messrs C. P. Syndicate Private Limited and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Central Government Industrial Tribunal, Jabalpur, constituted under section 7A of the said Act.

SCHEDULE

Whether, having regard to the recommendations of the Central Wage Board for Coal Mining Industry, the managements of the Damua and Kalichhappar Collieries, Post Office Damua, District Chhindwara, Madhya Pradesh, owned respectively by Kanhan Valley Coal Company Limited and Messrs C. P. Syndicate Private Limited, were justified in categorising the following workmen who were performing the jobs of both dressers and drillers in Category III, namely:—

Damua Colliery

Kanhan Valley Coal Company. (List of the Drillers/Dressers.)
Mine No. 9.

1. Mallkram	"
2. Dhupai	"
3. Manthan	"
4. Wali Mohammad	"
5. Kadir	"
6. Abdul	"
7. Deosingh	"
8. Agarsa	"
9. Bodhi	"
10. Agroodas	"
11. Mangal	"

C. P. Syndicate (Private) Limited Kalichhappar Colliery.

Mine No. 6.

1. Budhoo	"
2. Karoo	"
3. Sonsa	"
4. Lachhiram	"
5. Shekh Rehman	"
6. Sheolal	"
7. Rama	"
8. Shekh Rahim	"
9. Gari	"
10. Bansilal	"
11. Ramdas	"
12. Bhikoo	"

If not, to what relief are these workmen entitled?

[No. 5/2/69-LRII.]

BALWANT SINGH, Under Secy.

(Department of Labour and Employment)

New Delhi, the 15th May 1969

S.O. 1993.—Whereas the Indian Mining Association has nominated under clause (d) of sub-section (1) of section 12 of the Mines Act, 1952 (35 of 1952), Shri S. K. Nargundkar in place of Shri O. H. Senlor as a member of the Mining Board constituted for the State of Bihar;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 12 of the Mines Act, 1952 (35 of 1952), the Central Government hereby makes

the following amendment in the notification of the Government of India in the late Ministry of Labour and Employment No. S.O. 3938, dated the 22nd December, 1962, namely:—

In the said notification, under the heading “Members”, against serial number (3), for the existing entry, the following, *etc.*, shall be substituted, namely:—

“Shri S. K. Naigundkar

The East Indian Coal Company Limited,

Post Office, Jealgora, District Dhanbad.

[Nominated by the Indian Mining Association
under clause (d) of section 12(1)]”

[No. 3/2/69-MI.]

J. D. TEWARI, Under Secy.

(Department of Rehabilitation)

(Office of the Chief Settlement Commissioner)

New Delhi, the 17th May 1969

S.O. 1994.—In exercise of the powers conferred by Sub-Section (1) of Section 3 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (No. 44 of 1954), The Central Government hereby appoints for the State of Rajasthan, Shri R. K. Malik, Assistant Settlement Officer in the office of the Assistant Settlement Commissioner incharge, Rajasthan, Jaipur as Managing Officer for the purpose of performing the functions assigned to such officers by or under the said Act

[No. 8(84) AGZ/66.]

A. G. VASWANI,

Settlement Commissioner (A) &

Ex-Officio Under Secy.